United Nations A/HRC/31/NGO/126

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Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02559(E)

Please recycle

PAKISTAN: Government undermines the people's Right to Life

The Asian Legal Resource Centre (ALRC) would like to draw the UN Human Rights Council's attention to the deteriorating human rights conditions in Pakistan, particularly regarding the right to life. The lifting of the moratorium on the death penalty has led to the execution of more than 350 people, the vast majority of whom were not convicted of terror offences. Initially reserved for terror convicts, the death penalty was extended to all capital crimes, including kidnapping and murder, on 10 March 2015, at the behest of the military establishment.

Pakistan's lifting of the moratorium on the execution of death sentences while its criminal justice system is mired in corruption and injustice is a complete travesty. Exercising the death penalty in an already intolerant society is clearly a populist move rather than a deterrent to crime and terror. Confessions obtained through torture are the basis upon which the Anti-Terrorism and Sessions Courts are handing down death sentences. Blind to justice and international norms, these Courts have been awarding death sentences to minors and even the mentally and physically challenged.

Federal Interior Minister Chaudhry Nisar Ali Khan announced that executions will at least double in 2016; it can thus be estimated that three or more persons will be hung daily. These executions will colour the entire year.

Pakistan is believed to have the largest number of death row inmates in the world. According to the government, in October 2015, 6,016 prisoners were awaiting execution; other estimates, are however higher, putting the number close to 8,000. Up to 1,000 people convicted as juveniles are facing execution. Executing juvenile convicts is illegal under international law. Proving age in Pakistan can be difficult, particularly in poor communities, where many births are not registered.

In June 2015, Aftab Bahadur was hanged in Kot Lakpat Jail. He was sentenced to death on murder charges when he was 15-years-old. According to Aftab, the police asked for a 50,000 Rupee bribe when he was arrested, and said that they would let him go if he paid up. Pakistan's labyrinthine and archaic investigation and prosecution makes it an uphill task for a person wrongfully convicted to prove his innocence. Furthermore, confessions are extracted using third degree torture, resulting in the miscarriage of justice.

The state of the country's criminal justice system is such that it is used to punish the underprivileged and vulnerable, the very group it is meant to protect. Take the case of Khizar Hayat, a schizophrenic, whose mental state deteriorated due to 17 years spent on death row in Pakistan. Due to relentless civil society efforts, the execution of Khizar's death warrant was delayed to allow for a proper medical evaluation. But the State remains determined to hang him till his death.

A paraplegic, 43-year-old Abdul Basit, also faces the gallows. A wheelchair bound prisoner at Lahore Jail, Basit was convicted and sentenced to death for murder in 2009. In 2010, he contracted tubercular meningitis in prison. The prison authorities did not provide him sufficient health care, which left him paralysed from the waist down. Despite a government-appointed medical board having confirmed the continuing severity of his condition, last month, a "black warrant" was issued for his execution.

Khizar and Abdul Basit's death warrants are in violation of the UN Convention on the Rights of Persons with Disabilities, which Pakistan ratified in 2011. The UN Commission on Human Rights adopted resolutions in 1999 and 2000 urging countries that retain the death penalty not to impose it "on a person suffering from any form of mental disorder". Additionally, Section 84 of the Pakistan Penal Code excludes from criminal punishment any person demonstrating "disorder of his mental capacities".

Muhammad Anwar was a minor at the time of his alleged crime. He then spent 23 years on death row, a time that exceeds a life sentence. Following two heart attacks in jail, Anwar is now paralysed in his left hand and leg. While his execution has been temporarily halted due to international pressure, another minor at the time of his accused crime, Saqi Shah was not so lucky. Saqi was charged with the murder of a person from a militant and banned organization at the age of 16. He spent 23 years in prison, 20 of which were in a "death cell" of Adiala Prison, before being executed.

Four teenagers were hung in Pakistan in 2015, despite the plea from their lawyers and human rights organizations that they were under 18 years at the time of their alleged crime. Aftab Bahadur Masih, Ansar Iqbal, Syed Saqı Shah, and Shafqat Hussain had already served two decades behind bars before being hanged. The courts disregarded all evidence pertaining to their age before doling out the death sentences. In the case of Shafqat Hussain, the court refused to allow his lawyer more time to furnish evidence related to his exact age. The executions violate the prohibition on the execution of juveniles set out in Article 6 of the ICCPR and Article 37 of the UN Convention on the Rights of the Child.

Article 9 of the Constitution states, "No Person shall be deprived of life or liberty save in accordance with law," yet the country's civilian and military courts are sentencing people without following due process. Even the façade of the rule of law has taken a back seat as the State gropes in the dark to deter terrorism with judicial and quasi-judicial terror.

The government of Pakistan has decided to execute 8,000 prisoners before the general elections of 2018 to claim that it has followed the rule of law. When the moratorium was lifted, the government promised that hangings would help deter Islamist militants, yet less than one in six executions were linked to militancy. This is a clear violation of Article 6(2) of the ICCPR, which states, "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime."

The right to life is a supreme and inalienable right, and any exception to it must be narrow and well founded. The death penalty legitimizes an irreversible act of violence by the State and will inevitably claim innocent victims. As long as human justice remains fallible, the risk of executing the innocent can never be eliminated. Surveys and studies conducted by the United Nations and others show that capital punishment does not deter crime. On the other hand, an increase in the likelihood of being caught and rehabilitation for first-time offenders are certainly deterrence. The focus on punishment takes the State's attention away from these other important goals.

In light of these realities, the Asian Legal Resource Center recommends:

a) The United Nations makes the Council membership of Pakistan conditional – on halting executions of those not involved in terrorism and on death row since 1990.
b) The government of Pakistan re-establishes a moratorium on all further executions;
c) The government of Pakistan respects the right to life of every citizen and ensures that due process is followed in any legal measure restricting this right;
d) The State of Pakistan re-engineers and overhauls its archaic criminal justice institutions ushering in a humane and judicious system that uses forensics and modern methods of investigation.

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Human Rights Council
Thirty-first session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the Pasumai Thaayagam Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02604(E)

Please recycle

Accountability, Justice and Reconciliation in Sri Lanka

Pasumai Thaayagam Foundation takes this opportunity to appeal to the Human Rights Council (HRC) and the Office of the High Commissioner for Human Rights (OHCHR) to continue working towards ensuring that Sri Lanka fulfils its commitments under Resolution 30/1 (the 'Resolution'), providing relevant assistance where necessary.

The Resolution, passed at the 30th session of the HRC, and co-sponsored by Sri Lanka, calls on the Sri Lankan government to uphold its commitments to develop a credible judicial process including international actors, to implement the recommendations of the OHCHR's report on Sri Lanka, to introduce effective security sector reform, and to take necessary constitutional measures to reach a political settlement. The Resolution presented a small but important window of opportunity to see Tamil grievances and rights finally addressed and achieved.

However, over the last few months Pasumai Thaayagam Foundation has become deeply concerned by the unclear and conflicting statements that have been delivered by different members of the Sri Lankan government on plans to implement the Resolution. For example, recently, both President Sirisena and Prime Minister Wickremasinghehave stated that the judicial mechanism would not include foreign judges. This is a key component of the Resolution, as significant and meaningful international involvement is a pre-requisite for any accountability and justice mechanism to be credible in the eyes of victims and war-affected communities in Sri Lanka.

The unclear and contradictory statements come at a time when Tamil victims and communities continue to have little to no confidence in the Sri Lankan government's political will due to the government's failure to address critical on-going human rights issues including the military occupation of the North-East, reports of on-going torture, continued illegal land acquisition, not releasing the comprehensive list of detainees and the detention of political prisoners.

These issues must be immediately addressed in order to gain the Tamil community's trust and support in any transitional justice initiatives. Similarly, while Pasumai Thaayagam Foundation takes note of the recent creation of a Consultation Task Force, we emphasize the need for the Sri Lankan government itself to make a clear and definitive statement about its commitment to upholding the Resolution it co-sponsored.

Finally, Pasumai Thaayagam Foundation would also like to re-iterate that though steps towards a political solution are important and needed for sustainable peace, they are no substitute for justice. Victims and war-affected communities have repeatedly made clear that they require meaningful accountability and justice to move towards a sustainable future for the country as a whole.

2016 is a make or break year for Sri Lanka's path towards accountability, justice and reconciliation, and it is imperative that the HRC and OHCHR continue to remain critically engaged with Sri Lanka to ensure that commitments under the Resolution are fulfilled.

The British Tamils Forum (BTF, UK), an NGO without consultative status, also shares the views expressed in this statement.

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Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Human Rights Now expresses deep concern over the continuing crackdown and detention of human rights lawyers in China

1. Crackdowns against human rights lawyers in China

Since 9 July 2015, Chinese authorities have questioned, summoned, detained, or arrested more than 300 human rights lawyers and defenders in what has been labeled the "709 [or July 9] Crackdown." To date, 33 lawyers and activists are either still in detention or have been disappeared, including Ms. Wang Yu, named the bravest female lawyer in China, and Mr. Zhou Shifeng, the director of the Fengrui Law Firm where Ms. Wang works as an attorney.[1] In total, 19 human rights lawyers have been officially arrested, 11 of whom are accused of "subversion of State power" and five for "inciting subversion of State power."[2]

Despite numerous attempts by the lawyers and families of the detained lawyers to receive redress or legal remedies, all efforts have proved futile with all legal avenues exhausted. The location of most detained lawyers and rights defenders still remain unknown to their families and to the lawyers defending them.[3] According to one source, only one of those under arrest has been allowed access to counsel, placing the treatment of others in violation of international human rights standards and Chinese criminal procedural law.[4]

Human Rights Now, a Tokyo based international human rights NGO, along with other international civil society organizations, is concerned that these lawyers are at a high risk of torture or inhumane or degrading treatment.[5]

2. Legal duties and international standards against the crackdowns against lawyers

The recent crackdowns against human rights lawyers contravene international human rights law and standards as well as Article 35 of the Chinese Constitution, which states that "citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration." The arbitrary detention of human rights lawyers prevents them from working on and bringing attention to human rights violations and other human rights issues in China, allowing abuses to continue.

It is necessary for the rule of law that lawyers be independent and have the freedom to conduct legal activities. In this regard, the *UN Basic Principles on the Role of Lawyers*, which establishes the international standard for the treatment of lawyers, declares that "lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority" (Article 20). The principles also guarantee basic rights such as freedom of expression and freedom of legal activities providing,

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization(Article 23).

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[1] China Human Rights Lawyers Concern Group, "['709 Crackdown'] Latest data and development of cases as of 18:00 29 January," 29 Jan. 2016, http://www.chrlawyers.hk/en/content/'709-crackdown'-latest-data-and-development-cases-1800-29-january.

[2] Id.

[3] Id.

[4] Id.

[5] *See*, Human Rights Watch, "Letter from Legal Experts on Detained Chinese Lawyers," 18 Jan. 2016, https://www.hrw.org/news/2016/01/18/letter-legal-experts-detained-chinese-lawyers

The arrest and detention of lawyers because of their professional activities and statements clearly violate this principle.

3. Recommendations

Human Rights Now expresses its deep concern over the detentions of and crackdowns against human rights lawyers in China, and calls on the Chinese Government to:

- Immediately release lawyers and activists arbitrarily detained for their legal activities and statements, and end any prosecutions or other forms of harassment against them;
- Disclose the locations of all persons currently being detained, and guarantee their safety and mental and physical health;
- Respect the due process and other penal rights of detainees as established under international human rights laws, such as the rights to access and interview with an attorney and to be treated in a humane manner.
- Follow the international standards on the treatment of lawyers established by the *Basic Principles on the Role of Lawyers*, and make sure that lawyers are able to perform their duties without any threat, harassment, or arbitrary intervention.

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Human Rights Council
Thirty-first session
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Norwegian Refugee Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Obstruction of Humanitarian Assistance under International Law

1. The Norwegian Refugee Council (NRC) submits the following statement for consideration by the United Nations (UN) Human Right Council (the 'Council') in relation to deliberations under Agenda Item 7. The statement focuses on Israel's legal and humanitarian obligations in accordance with international human rights law and humanitarian law – the precepts of which govern the provision of humanitarian assistance in occupied territory.

I. West Bank including East Jerusalem

2. The impediments to development imposed by Israel in Area C of the West Bank has resulted in significant hardships for Palestinians living there. In the period 1 January 2016 through 11 February 2016 alone, the Israeli Military Commander (IMC) destroyed 233 residential, water and sanitation and livelihood-related structures owned or inhabited by Palestinians, adversely affecting 1,400 persons. This represents a 230% increase in the destruction of property in relation to the monthly average in 2015. The marked increase denotes the extensive and wanton nature of destruction.

3. Of the structures destroyed or seized during this period, 104 were provided as internationally-funded humanitarian assistance representing a staggering 751% increase in the destruction of humanitarian assistance in relation to the monthly average in 2015. The share of humanitarian assistance being demolished has increased from 21% in 2015 to 45% in early 2016, indicative of the intentional targeting of humanitarian relief objects.

4. Currently, the IMC unlawfully obstructs the delivery of humanitarian assistance to the most vulnerable communities in Area C, based on: their location in strategic priority areas for Israeli settlement expansion; due to their proximity to the Wall; or because of closed military zones.[1] Further, in 2015, following a report by the settlement organization, Regavim, Israeli PM Netanyahu publicly ordered the military to demolish EU funded structures in Area C.[2]

5. In April 2015 the IMC issued an order[3] relating to the treatment of internationally-funded humanitarian assistance, which the IMC relates to as illegal construction. From the order it seems as though IMC is moving forward with formally and systemically protesting the provision of material assistance in Area C, and demanding international donors remove humanitarian objects, thus delaying or denying the provision of humanitarian relief consignments.

6. In January 2016 the Israeli PM restated publicly on at least two occasions that the Government of Israel considers humanitarian assistance provided by the European Union and its Member States to be in violation of domestic and international law. Statements to the same effect were made by the IMC during a hearing in the Israeli Knesset Judea and Samaria Subcommittee of the

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[1] See the Israeli Knesset Judea and Samaria Subcommittee of the Foreign Affairs and Defense Committee, meeting on the "*illegal Palestinian construction in Area C*", minutes from 27 April 2014. For international law analysis of these restrictions see Marco Sassoli & Theo Boutruche, Expert Opinion on the Current Attempts to Displace the Remaining Bedouin Communities from the Central West Bank to Nuweima under International Humanitarian Law (11 November 2014); Yuval Shani, David Kretzmer &Eyal Benvenisti, Experts Legal Opinion in relation with the Petition filed by Residents of Villages in Firing Zone 918 against the Intention to Transfer them from their Homes (16 January 2013).

[2] Channel 2 News, 6 February 2015.

[3] see: http://gisha.org/UserFiles/File/LegalDocuments/procedures/west_bank/113.pdf

Foreign Affairs and Defense held on 13 January 2016, and in the State response to a petition heard by the High Court of Justice[4], confirming the intent to destroy humanitarian assistance and forcibly transfer Palestinians en masse.

II. Gaza Strip

7. A particular concern for humanitarian organisations operating in the Gaza Strip is the ongoing obstruction of personnel and humanitarian aid as a result of the blockade and land closure of Gaza, which the Secretary General has described as "a continuing collective penalty against the people of Gaza". [5] Access for humanitarian personnel and materials is entirely controlled by Israel, which results in a myriad of problems, delays and additional costs.

8. Israel enforces restrictions on any items it considers to be "dual use". The list of "dual use" items is remarkably broad and includes items such as wood, water pumps, disinfectants, concrete blocks, thermal insulation material, welding equipment and even X-ray machines.[6] While permission to bring these materials in is sometimes obtained, the process is time-consuming and administratively burdensome, putting it beyond the reach of all but the largest organisations. There have also been notable instances where NGO's have completed the arduous process of applying only to be refused, making completion of the projects impossible without finding some other source for essential materials.

9. Further, NGOs are likely to avoid developing projects which are reliant on the entry of materials whose supply is inconsistent and unreliable. The potential delays which may be incurred through Israeli restrictions can also result in project costs increasing dramatically, adding to the disincentive for donors to invest in such projects.

10. The implementation of the Gaza Reconstruction Mechanism (GRM) has gone some way to alleviate the lack of construction materials, and reconstruction has made progress, however the GRM has had less success for other "dual use" materials – particularly for WASH items – and is too cumbersome for most organisations to use. While any means to bring in more materials is welcome, we must address the root cause.

11. The blockade has not only resulted in chronic aid dependency and brought unemployment rates in Gaza to among the highest in the word,[7] but has also made humanitarian aid increasingly difficult to provide. In the wake of the protracted humanitarian crisis, steps must be taken to ensure that Israel meets its obligations as the Occupying Power to facilitate the flow of aid to the population of Gaza. It is crucial that Israel's "dual use" list be revised to bring it in line with international standards such as those set out in the Wassenaar Arrangement.[8]

III. The Obstruction of Humanitarian Assistance and International Law

12. Article 43 of the Hague Regulations imposes a general duty upon an Occupying Power to provide for the wellbeing of the protected population as a duty of good governance. This in turn forms the basis for the concomitant and secondary duty to accept and facilitate humanitarian

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[4] HCJ 8802/15

[5] A/HRC/28/45, para. 70

[6] Defense Export Control Order (Controlled dual use equipment transferred to areas under Palestinian civil administration) (amendment) 2015

[7] 43.9% in 2014. Economic Monitoring Report to the Ad Hoc Liaison Committee, World Bank (27 May 2015) at p.19 http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/05/27/090224b082eccb31/5_0/Rendered/PDF/Economic0monit0oc0liaison0committee.pdf

[8] The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.

relief. As such, Article 59 of the Fourth Geneva Convention provides that when "whole or part of the population of an occupied territory are inadequately supplied, the occupying power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all means at its disposal".

13. All contracting parties must permit the free passage of such humanitarian consignments and guarantee their protection. As such, relief societies and their representatives must be granted "all facilities" in visiting protected persons while the Occupying Power must respect and protect humanitarian workers. Further, the Occupying Power must not divert relief consignments from the purpose for which they are intended and must also "facilitate the rapid distribution" of relief consignments.

14. The obligation of the Occupying Power to accept and facilitate humanitarian relief is tempered by certain control rights, which necessitate certain cooperation between the relief providers and the Occupying Power. Crucially, however, the consent by the occupying power to the provision of relief must not be withheld for arbitrary or capricious reasons.

15. Consent is said to be arbitrarily withheld when, *inter alia*, such withholding or the reasons behind it, violate other obligations of the Occupying Power. For instance, the unlawful and wanton demolition and confiscation of humanitarian assistance; the imposition of an unlawful planning regime; and the harassment, detention or arrest of relief workers would amount to the arbitrary withholding of consent in this context and would amount to an unjustified obstruction of humanitarian assistance.

16. International human rights law is also binding on the Occupying Power. It imposes a positive obligation to protect the right to an adequate standard of living and to ensure the satisfaction of minimum essential levels of, inter alia, housing, food, health and education, to the maximum of its available resources, including resources provided by the humanitarian community through international cooperation and assistance.

IV. Conclusion

17. NRC is alarmed by the systematic denial of, or interference with, international humanitarian assistance to the affected communities, which further exacerbates the hardships experienced by Palestinians and incurs added violations of international law. NRC and its partners have experienced this intentional targeting and obstruction of humanitarian assistance, and hold that this policy is meant to engender a coercive environment characterized by the denial of rudimentary infrastructure and essential services, and which promotes the forcible transfer of Palestinians.

18. If Gaza is to recover, if the rights of the protected population are to be respected and if peace process is to progress, then the unlawful obstruction of humanitarian assistance which condemn the protected Palestinian population to ever-increasing hardships must cease.

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Thirty-first session
Agenda item 6
Universal Periodic Review

Written statement* submitted by the Arab NGO Network for Development, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02607(E)

Please recycle

Economic and social rights conditions in Lebanon in light of second cycle Universal Periodic Review

During the three and a half an hour interactive dialogue session on November 2nd several countries that took the floor put a clear emphasis on the impacts of the Syrian crisis, acknowledged the pressure Lebanon face, appreciated the National Human Rights Action Plan and achievements on women's and disability rights in the country.

Nevertheless, although in comparison to the first cycle, while the Syria crisis altered the context totally and is well acknowledged by all, 219 recommendations received and pending a reply by Lebanon remained similar to first cycle, calling for steps towards the ratification of international human rights instruments, establishment of the National Human Rights Institution, migrant workers' rights, Palestinian refugee rights. Furthermore, like the first cycle review, there has not been a comprehensive review of the economic and social rights. The recommendations remained too general and vague calling Lebanon to take ''additional efforts'', '' further steps'' mainly, not stressing the very problematic in the country, namely the failure of economic and social policies adopted by successive governments in addressing national developmental challenges.

The Arab NGO Network for Development (ANND) takes this written statement as an opportunity to shed light on the condition of the economic and social rights in the country and urge Human Rights Council members to call Lebanon to take immediate and remedial action in addressing them through the implementation of UPR recommendations.

Moreover, most lately on February 4th, 2016 the international community convened in London in a conference entitled Supporting Syria and the region[1], during which Lebanon presented a paper related to the latest developments and the implications of the Syrian Crisis. ANND highlights that Government plans should be consistent and coherent with UPR recommendations received calling for action for addressing the refugee crisis. In fact, Lebanon should adopt a multi-annual rights-based and comprehensive national plan, centralizing the needs of both the refugees and the host communities. In turn, the donor community should unconditionally pledge to provide the requested $4.9 billion as financial support. This is key to address the violations they have been facing in full enjoyment of their rights.

In this context and related to the UPR recommendations received by Lebanon:

- While addressing inequality and poverty in the country remains a core challenge, second cycle recommendations remained focused on combatting poverty through implementation of support programs only. Indeed, the strategic response of Lebanon addressing this challenge is through the National Poverty Targeting Program which was restructured after the huge influx of Syrian refugees and named as Emergency National Poverty Targeting Project, with an increased budget. Yet the increasing inequality and economic and social gaps as well as the intergenerational transfer of poverty cannot be addressed by targeting only specific segments of the society and improving the income of the poorest families. Poverty can best be addressed by ensuring the universal and full enjoyment of the economic and social rights including clean water, adequate waste management strategy, energy, public transportation and housing as well as health and education including free schooling, and the accessibility and availability of these rights to all without any discrimination. Addressing poverty in Lebanon requires as well adoption of a fair taxation policy.
- Labor rights recommendations focused on the employment of Palestinian refugees, migrant domestic workers and fighting child labor, while on these issues Lebanon accepted several recommendations in the first cycle review in 2010 but still fails to ensure full and genuine implementation. On the other hand, the session did not focus on strengthening the rights of workers, especially with regard to the right to organize and the formation of independent trade unions and on reforming the social security system; expanding its scope and comprehensiveness. In addition, the review session was a missed opportunity to address a core problem, namely the lack of a comprehensive employment policy in Lebanon and in relation the need to enhance

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/498026/Supporting_Syria__the_Region_London_2016_-_Lebanon_Statement.pdf

productive sectors able to generate employment. It should be noted that according to the International Labor Organization, as a result of the Syrian refugee crisis in Lebanon, by 2015 an estimated 170,000 Lebanese had fallen into poverty, with unemployment doubling to about 20 percent[2]. The Lebanese government plans as announced in London Conference, towards job creation through Subsidized Temporary Employment Programme (STEP) and the SME sectors' development support should be part of a comprehensive and sustainable development approach and should assure to enhance productive sectors that refugees can contribute to. The planned investments in this context, particularly those prioritizing 'strategically selected sectors' namely from transport, energy, water, environment and public services should not merely seek supporting urgent national-level infrastructure needs of Lebanon but should be planned with a rights-based approach ensuring sustainable and decent work conditions for refugees.

- With regard to the right to health, high cost of health services were tackled in one recommendation, yet concrete steps are needed to reform the health system in Lebanon. This should aim at strengthening the regulatory role of the state in the health sector, defining the role of the different public and private stakeholders, monitoring their performance thus rooting out corruption and waste and establishing a health policy that prioritizes protection of the citizen in need of health services.
- With regard to the right to education, the call for equitable and sustainable resources should be noted by Lebanon as reflecting the problematic public spending on education and the related disparities in the quality of the public system and private education and inequalities in the enjoyment of the right to education. The role of the State as the main duty-holder for realization of the right to education should be recognized and measures to enhance the quality of public education must be implemented including developing a new unified curriculum, establishing and implementing quality-oriented strategies especially for public schools in rural areas and adapting the school environment to the basic needs of children and people with disabilities. Furthermore, financing call directed to international community during London Conference in terms of education sector, namely $350m a year ($1.75bn over five years) should prioritize the educational needs of Syrian children, aiming at ensuring availability, accessibility, affordability and adaptability of the right to education for them.

As accepted recommendations from the 219 pending-reply will remain as voluntary commitments undertaken in front of the international community, Lebanon needs to translate them into comprehensive, concrete and effective action at national level to advance the human rights conditions. This requires sincere implementation by adopting a road map and defining a clear timeline. Lebanon should establish a follow-up and monitoring mechanism that includes all relevant stakeholders including civil society and engage media to raise further awareness and to ensure accountability.

Furthermore, in order to ensure allocation of maximum available resources for the protection and promotion of human rights and to be able to properly manage the financial aid requested from the international community in addressing the refugee crisis, Lebanon should adopt the public budget law in the Parliament[3]. The planning of the budget should take into consideration above mentioned national strategies.

Moreover, the national plan adopted in addressing the refugee crisis should take into consideration the role of the local host communities and consequently the local authorities should be key actors in the implementation of this plan. This requires conducting the municipal elections planned for May 2016.

Last but not least, the commitment of international community in addressing the rights of refugees in Syria through directing related recommendations to Lebanon during its UPR review is welcome yet this should be supported by abiding to the development effectiveness principles in allocations of aid, including respecting national ownership, enhanced transparency and mutual accountability.

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[2] http://www.ilo.org/beirut/areasofwork/syrian-refugee-crisis/lebanon/lang--en/index.htm

[3] Lebanon is without an approved budget since 2005.

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Human Rights Council
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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by the Pasumai Thaayagam Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Please recycle

Justice delayed is justice denied: bring justice to the victims in Sri Lanka

Pasumai Thaayagam Foundation appreciates the UN High Commissioner for Human Rights' visit to Sri Lanka in February 2016. The OHCHR Investigation on Sri Lanka (OISL) report (A/HRC/30/CRP.2) clearly identified and exposed the genocidal nature of the Sinhala Buddhist majoritarian government's concerted actions in committing war crimes and crimes against humanity and correctly identified these as "system crimes." Full implementation of the resolution (HRC/RES/30/1) as agreed to by the Government of Sri Lanka as a co-sponsor will pave the way for the resolution of the longstanding conflict.

Even though the OISL report based on individual testimonies, direct interviews of victims, authentic videos corroborated by technical experts, satellite photos, and past documented evidence, presented a ray of hope for finding the truth, the final resolution ignored this report to satisfy the diktats of the Government of Sri Lanka which is clearly accused of war crimes and system crimes. The call in the UNHRC resolution for the Government of Sri Lanka, which stands accused by the OISL Report, to investigate itself under a constitution and laws that facilitate the continuing genocide of the Eelam Tamils makes the principles of natural justice a mockery. Unfortunately, the President of Sri Lanka re-affirmed his intention to conduct the inquiry within the current constitution[1] which will exclude any meaningful international mechanism, thus reversing the assurance given by the GoSL representative co-sponsoring the UNHRC resolution.

The call for an international investigation was necessitated by the denial of justice by successive governments of Sri Lanka including the current one. Under these circumstances the full implementation of the UNHRC resolution will only do justice to the victims. Despite a spotlight being shown on Sri Lanka the human rights violations continue unabated. Just weeks prior to the UN High Commissioner for Human Rights' visit to Sri Lanka, a six-year old Tamil boy was raped and murdered near the Sampur High Security Zone in eastern Sri Lanka[2]. All circumstantial evidence point to the Government of Sri Lanka Navy personnel located nearby in the Eastern part of the island. Lands forcibly taken from the Tamils have not been returned to them while the victims are languishing in camps.

Despite the watered down resolution, Pasumai Thaayagam Foundation (PTF) along with the International Council of Eelam Tamils (ICET) is closely watching every step of the mandated investigation. Justice delayed is justice denied. Therefore, PTF and ICET urge the Human Rights Council and the OHCHR to be cognizant of the past documented history of denial of justice by the Government of Sri Lanka and institute a mechanism that has the confidence of the victims

Since the UNHRC resolution 30/1 calls for an oral update to the Human Rights Council at its thirty-second session, and a comprehensive report followed by discussion on the implementation of the resolution at its thirty-fourth session; PTF and ICET will be closely monitoring compliance and progress made in this respect. PTF and ICET humbly request the Human Rights Council's and the UN High Commissioner for Human Rights' continued vigilance in bringing justice to the victims.

International Council of Eelam Tamils (ICET), an NGO without consultative status, also shares the views expressed in this statement.

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[1] Investigation into war crime charges should be 'internal' and indigenous – Sri Lankan President, Asian Tribune 23 January 2016 http://www.asiantribune.com/node/88475

[2] Gruesome Murder Shatters Trinco, The Sunday Leader, 7 February 2016 http://www.thesundayleader.lk/2016/02/07/gruesome-murder-shatters-trinco/

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Human Rights Council
Thirty-first session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Sri Lanka: Maintain momentum, deliver on human rights commitments

In October 2015, the Sri Lankan Government made historic commitments to the people of Sri Lanka and to the Human Rights Council (HRC) "to undertake a comprehensive approach to dealing with the past, incorporating the full range of judicial and non-judicial measures" aimed at delivering truth, justice, reparation and guarantees of non-recurrence.[1] These four pillars are essential to end impunity for violations and abuses.

Sri Lanka's legacy of impunity stretches back decades. Alleged human rights violations and abuses by all parties during, and following, the conflict have still not been effectively investigated. Torture in police custody continues.

Sri Lanka's decision to co-sponsor UN Human Rights Council Resolution 30/1 *Promoting reconciliation, accountability and human rights in Sri Lanka* last October signals an important opportunity to end this injustice and address the harm caused. The resolution contains commitments to the Council to implement national reforms and establish new mechanisms. Furthermore, it also encourages implementation of the important recommendations set out in the OHCHR's investigation report, including the establishment of a hybrid special court integrating international judges, lawyers, prosecutors and investigators.[2]

Amnesty International welcomed Sri Lanka's willingness to take important steps towards fulfilling its obligations and ensuring the rights of victims. When our organization visited Sri Lanka in December 2015, it found that progress was being made towards ratifying the *International Convention for the Protection of All Persons from Enforced Disappearances*, establishing a national office for missing persons and developing a strategy to consult victims, affected communities and Sri Lankan society on "reconciliation mechanisms". The government has also issued a standing invitation to UN Special Procedures, as well as specific invitations to the Special Rapporteurs on the Independence of Judges and Lawyers, Torture, Freedom of Expression and Minorities to visit Sri Lanka in 2016. However, we note that efforts to implement the commitments have been slow and overshadowed by concurrent constitutional reform efforts.
Amnesty International urges the Government of Sri Lanka to ensure strong momentum in building a domestic culture of human rights respect and protection in genuine consultation with civil society and victims and their families who have waited so long for truth, justice and reparation.

Consultation
Public consultation on design and implementation of the national mechanisms has been slow to date and many victims and their families are still unclear how to make their views known. Taking into account the delays so far, a realistic timeline for the consultation should be developed to allow for full public participation. Additionally, consultations should be inclusive of all affected communities, independent and transparent. The process should cover all aspects of the four pillars of transitional justice and, importantly, must take all steps needed to ensure the effective participation of women from all communities. The process must not be used to sell pre-determined models or strategies and should be completed prior to the design and implementation of proposed mechanisms.
In regards to this ongoing consultation, Amnesty International, building on our long history of working to fight impunity, would like to share the following general observations on achieving each of the four pillars of transitional justice.

Justice
The justice mechanism's mandate will be central to its credibility and effectiveness. In devising its form, composition, scope and timeframe, Sri Lanka should be ambitious and seek to deliver justice to as many victims as possible and to all affected communities. We support OHCHR's proposal for a hybrid special court, but the court must do more than investigate a handful of cases and must form part of a broader initiative to strengthen the national justice system so that national courts can ultimately prosecute other cases and address future human rights violations effectively.

[1] Promoting reconciliation, accountability and human rights in Sri Lanka, A/HRC/RES/30/1, 14 October 2015, para. 4.
[2] Report of the OHCHR Investigation on Sri Lanka (OISL), Recommendation 20, page 251, 16 September 2015, A/HRC/30/CRP.2.

Decades of serious human rights violations and abuses make it essential that the period of investigation is not arbitrarily limited to a specific time period that would unfairly exclude victims.

Engagement of international judges, prosecutors, defence lawyers, forensic experts, and victim and witness protection experts will be of the utmost importance to maintain the credibility, independence and effectiveness of the process. Effective witness protection is also vital and must be independent of any security or law enforcement body that is suspected of involvement in human rights violations.

Sri Lanka's current laws remain inadequate to prosecute crimes under international law effectively. Reform is needed. Genocide, crimes against humanity, war crimes (including war crimes under customary international law), torture, enforced disappearance and extrajudicial execution should be made crimes in Sri Lankan law with retroactive effect over past crimes, as permitted by Article 15(2) of the ICCPR. Principles of criminal responsibility, including command responsibility, superior orders and the prohibition of statutes of limitations, immunities and amnesties for crimes under international law must also be adopted.

A comprehensive outreach program must be established to inform the whole population about the justice efforts at all stages of the process in order to build confidence and correct any misinformation. Broadcasting or Internet streaming of trials should be considered, and proceedings should be open to independent trial observers.

Truth

Independent of the Office of Missing Persons, a truth commission should be established to document and clarify, as far as possible, the facts about past human rights violations and abuses by all sides throughout, and following, the conflict. This commission should provide information it gathers to investigations and criminal and civil proceedings. It should be mandated to recommend full reparation to victims and their relatives. The commission must be independent, impartial and made up of highly qualified commissioners with expertise, including on human rights, sexual and gender based violence, and violence against children. It must be granted the powers and authority to gather all information it considers relevant. It must not have the power to grant amnesties for crimes under international law. It must also be able to provide effective victim and witness protection. All aspects of its work should be made public provided that witnesses are not endangered by doing so.

Reparation

Victims should be provided with full reparation to address the harm they have suffered and to help them rebuild their lives. A reparation program should be established to provide comprehensive measures including restitution, rehabilitation, compensation and satisfaction, as well as measures that would prevent repetition of past violations (see below) and improve the lives of marginalized groups, including women. If a reparation program is developed as part of the truth commission process, then there should be provision for interim reparation measures to address the immediate needs of victims who require urgent relief.

Non-recurrence

Justice, truth and reparation can be important mechanisms to ensure that past human rights violations and abuses will never be repeated.

In addition, the government of Sri Lanka should:

- Conduct security sector reform, including measures to ensure that law enforcement agencies and the military respect human rights;
- Establish a vetting system of law enforcement and security officials to remove or bar those persons about whom there is evidence of them having committed serious human rights violations;
- Review and reform laws that have contributed to human rights violations, including the Prevention of Terrorism Act and the Public Security Ordinance;
- Adopt a constitutional bill of rights that provides victims with the right to effective remedies;
- Take effective measures to combat discrimination within Sri Lankan society;
- Ensure, for the whole population, minimum essential levels of economic, social and cultural rights, such as the rights to food, water, sanitation, healthcare and housing and, where necessary, seek international cooperation and assistance to do so;

- Investigate attacks against journalists, human rights defenders, and members of religious minorities and civil society and ensure that perpetrators are brought to justice;
- Ratify and implement key human rights treaties to strengthen protection and ensure there cannot be impunity; and
- Seek the assistance of and cooperate fully with all relevant UN Special Procedures.

The United Nations system and Member States should support this vital process by:

- Encouraging Sri Lankan authorities to affirm and deliver on the national and international human rights commitments made in 2015 and ensuring that the Human Rights Council monitors progress and insists on implementation.
- Offering technical assistance and financial support for the development and implementation of a genuine and effective consultation process; justice, truth and reparation mechanisms that meet international standards; legal reform and any other steps to ensure non-recurrence.
- Ensuring that all assistance provided emphasizes the centrality of victims and their special status in the design and implementation of mechanisms to deliver truth, justice, reparation and non-recurrence of violations.
- Assisting Sri Lanka and encouraging other international support to bring witness protection into line with international standards and to ensure its independence.
- Entering into agreements with Sri Lanka to relocate to safe countries victims and witnesses who face serious risk due to their engagement with the justice, truth or reparation mechanisms.
- Assisting Sri Lanka to develop a rigorous human rights vetting program for law enforcement agencies and the military for domestic purposes, and insisting on vetting of all Sri Lankan personnel contributed to UN peacekeeping operations, training or exchanges programs.
- Providing cooperation and mutual legal assistance to Sri Lankan or hybrid courts seeking to prosecute persons suspected of crimes under international law or other serious human rights violations, subject to safeguards precluding the imposition of the death penalty.
- Pursuing establishment of an OHCHR Office in Sri Lanka.

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Human Rights Council
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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Liberal International (World Liberal Union), non-governmental organizations in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Deterioration of the State of Democracy and the Rule of Law around the World

Liberal International (LI) welcomes the efforts of the United Nations (UN) to promote democratic governance around the world and fully supports the newly established UN forum on human rights, democracy and the rule of law, which aims to promote dialogue and cooperation on issues pertaining to these areas.

This statement would like to bring attention to the worrisome trend pertaining to an ever-increasing deterioration in the respect for basic democratic principles and the rule of law in the following countries:

Burundi

-Recognising that the Independent National Electoral Commission organised the 2015 Presidential elections under conditions carrying the seeds of conflict and that the process had been boycotted by the opposition by withdrawing its candidates

-Stressing on the fact that the results of these elections were rejected by the Burundian opposition, a large section of Burundian civil society and the international community as the candidacy and election of President Nkurunziza did not comply with either the constitution of the country or the Arusha Peace and Reconciliation agreement

-Denouncing the recent decision of the African Union to halt the deployment of 5000 peacekeepers and warning that this has the great potential to plunge the country into further destabilization and chaos accelerating the process of gross human rights violations against innocent civilians

-Acknowledging that all initiatives undertaken by the African Union, European Union, United States of America and the UN with the purpose of reaching a consensus among the political protagonists for the organisation of free, transparent and inclusive elections have not been heeded

-Deploring the fact that this categorical refusal to engage in a dialogue to find sustainable solutions to the political conflict relating to the third term of office of President Nkurunziza has been compounded by acts of violence characterised by selective killings of a genocidal nature, abductions and forced disappearances, extrajudicial executions, arbitrary arrest and imprisonment of opponents, forced exile of popular political opposition leaders, sexual violence against women and girls, destruction and closing down of the media, and the closure and suspension of certain civil society organizations

People's Republic of China

-Recognizing the continued suppression of freedom of expression and assembly in the People's Republic of China with thousands of unfair judicial proceedings in cases concerning civil society activists, journalists, pro-democracy campaigners, and political dissidents still prevalent

-Reiterating its concern that given the gravity of the situation in the South China Sea, China continues with its military build-up in this part of the world and refuses to resolve disputes based on international law

Cambodia

-Condemning the ruling party for breaking up the establishment of the political settlement with the Cambodia National Rescue Party (CNRP) and reinstating the politically motivated conviction against the leader of the liberal opposition Sam Rainsy
-Recognizing that the latest controversial law on the regulation of nongovernmental organisations followed by an announcement from Prime Minister Hun Sen to amend Cambodia's election law and bar Cambodians with dual citizenship from being political party leaders poses a direct threat to basic rights and freedoms

-Stressing on the fact that this is counter-productive for ending the political deadlock in the country and may lead to great consequences for the future of the democratic process in the country

Cuba

-Considering that despite the recent progress expressed by the restoration of the diplomatic ties with the USA, Cuba remains as a one-party state ruled by Communist military elite which denies basic civil and political rights to its citizens

-Recognizing that the Cuban democratic opposition and all individuals who attempt to exercise their rights to free expression, opinion, association, and assembly continue to face judicial prosecution and physical reprisals

-Noting with deep regret that the multiple requests for the UN to set up an international committee in order to conduct an independent investigation into the suspicious circumstances surrounding the death of Cuban opposition leader Oswaldo Paya remain unanswered

Congo Brazzaville

-Condemning the recent referendum which eliminated the constitution's two-year term limit on the Presidency paving the way for great abuse of power and subsequent violations of basic rights and freedoms

-Acknowledging that the political situation in the country remains volatile following arrests and judicial intimidation of leaders of the opposition as dictated by President Dénis Sassou Guesso in order to prevent campaigning and other political activities ahead of the general elections later this year

Democratic Republic of the Congo

-Recognizing that the significant delay on the part of the government and the national independent electoral commission in fulfilling their responsibility to organize local, provincial, parliamentary and presidential elections in the country poses serious threats to the democratic process in the country and has the danger of denying voting rights to its citizens

Malaysia:

-Deploring the politically motivated persecution and conviction of the liberal opposition leader Anwar Ibrahim on the basis of trumped up criminal charges and expresses great concern at his deteriorating health in prison and government delays in providing medical care for his declining condition

-Expressing deep concern about the lack of independence of the Malaysian judicial system as evidenced by the latest disappointment with the latest ruling of the Malaysian Judicial Court on the corruption case against President Najib

Myanmar[1]

-Acknowledging the significant progress achieved in light of the overwhelming victory of the opposition National League for Democracy and its leader Aung San Suu Kyi in the recent parliamentary elections following the partial revocation of powers by the military

-Expressing deep concern about the democratic transition process in the country following the refusal of the Parliament to permit essential constitutional amendments and allow for Aung San Suu Kyi to run in the upcoming Presidential elections

Nicaragua:

[1] Until 1989 referred to in the UN lexicon as Burma as it is still referred to within Liberal International

-Deploring the fact that the situation in Nicaragua continues to deteriorate as President Ortega refuses to accept reputable International and National Observers in the upcoming 2016 elections

-Expressing deep concern that such actions will set the stage for the beginning of yet another armed confrontation among Nicaraguans in 2017

Russia

-Recognizing the increasingly authoritarian political environment in the country which is characterized by ongoing intimidation of NGOs, rising nationalism and religious fundamentalism, clericalization of the country, suppression of freedom of speech and assembly, and political reprisals against the dissenting

-Expressing deep shock by the assassination of opposition liberal leader Boris Nemtsov

-Deploring the ongoing political reprisals by the Russian government against the Russian liberal opposition party Yabloko and the ongoing attacks against the leader of the People's Freedom Party Mikhail Kasyanov by the Chechen dictator Ramzan Kadyrov

-Condemning the recent shut down by the Russian authorities of the annual economic conference "Sibirian Davos", organized by Vladimir Ryzhkov in cooperation with the Friedrich Naumann Foundation as a clear act of intimidation and bullying

-Noting with deep concern that the Russian military activity in the Baltic Sea has increased and has become more aggressive

-Condemning the ongoing Russian creeping annexation in Georgia, categorical annexation of Crimea and repeated military engagement in Eastern Ukraine

Bolivarian Republic of Venezuela:

-Noting the progress achieved in the conduct of the most recent legislative elections which led the opposition to sweeping victory for the first time in 17 years resulting in narrow majority in the National Assembly

-Stressing on the fact that many Constitutional hurdles to a free and transparent democratic system remain with ongoing political confrontations between the legislative and the executive branches on the rise

Recalls:

-Its World Today Resolution to 60th LI Congress in Mexico City which called for free and fair elections in Burundi, the Democratic Republic of the Congo, and Congo Brazzaville among others

-Its Written Statement to the 29th Session of the UN Human Rights Council on the deterioration of the state of political and civil rights around the world

-Its Written Statement to the 28th Session of UNHRC which called on the Venezuelan government to honour its international obligations and immediately repeal the new military tactics law targeting peaceful domestic demonstrations

Calls:

-On the Burundian government to take all necessary steps to put an end to the violence, promote a climate of mutual trust between Burundians and resume observance of the Arusha Peace Agreement and the Constitution as to conduct an open dialogue with all stakeholders as to form a consensus on the organisation of credible elections

-On the mediator of the Burundian conflict, the Ugandan President Yoweri Kaguta Museveni, to do everything in his power as to commit the political protagonists without reservation (civil and armed movements) so they can engage in a frank, sincere and inclusive dialogue and find sustainable solutions for the restoration of democracy and peace in Burundi

-On the Association of South-East Asian States (ASEAN) to hasten the negotiation with China for a Code of Conduct on the South China Sea, especially given the increasing assertion of China over areas claimed by some ASEAN states

-On Cambodian Prime Minister Hun Sen to denounce the politically motivated charges against the leader of the Cambodia National Rescue Party Sam Rainsy and reinstate the dialogue with the opposition as dictated by the previously established political settlement

-On the Congolese elite to safeguard the credibility of the upcoming polls and on the international community, including the African Union, to monitor the elections in Congo Brazzaville closely as to be prepared to condemn them if necessary and prevent further democratic backsliding

-On the Cuban Government to hold fair and multiparty elections under international supervision and ratify without further delay the International Covenant on Civil and Political Rights to which it is a signatory

-On the authorities of the Democratic Republic of the Congo (DRC) to give priority to holding the parliamentary and legislative elections within the constitutional deadline and encourage the Congolese political class to find a solution which privileges peace and democracy in the country

-On the African Union, European Union and the United Nations to assist the DRC authorities in this process

-On Malaysia's government to release Anwar Ibrahim immediately and unconditionally and on the regional and international community to increase its pressure on the Malaysian ruling party as a clear sign of support for the development of a true democratic process in the country

-On Myanmar's newly elected government to accelerate the process of democratic reform, including the revocation of the constitutional barrier to Aung San Suu Kyi's right to run for the presidency, and to work towards a peaceful solution to the military conflict

-On the Nicaraguan government to comply with its international commitments on matters such as the rule of law, representative democracy and respect for human rights, and implement all necessary reforms as to ensure free and transparent elections

-On the People's Republic of China to adhere to international law, in particular UNCLOS, and multilateral negotiations for peaceful settlement of disputes

-On the Russian authorities to release all political prisoners, organise free and fair elections and abolish the authoritarian vector of Russia's development

-On the Russian leadership to immediately end all military attacks that lead to casualties among civilians in Syria

-On the Russian government to abolish support of separatists in Ukraine and conduct a legitimate and recognized by the UN referendum in Crimea under the observation of the Organisation for Security and Co-operation in Europe

-On the Organisation of American States to support the Venezuelan opposition in their efforts to restore basic democratic principles in the country

-On the President of Venezuela Nicolas Maduro to organize public consultations with grassroots' movements and civil society organisations without further delay as to ensure a truly inclusive political process

Commits:

-For its member parties to continue to fight against totalitarian and communist regimes and seek the promotion and advancement of liberal democracies around the world in line with Liberal International's underpinning Oxford Manifesto

-For its liberal human rights parliamentarians to raise the issue of repression of basic civil and political rights directly with the relevant special procedure mandate holders during its annual gathering at the United Nations Human Rights Council on 24 June 2016

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Catholic Child Bureau, non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Institutionalization of Children with Mental Disabilities in the Russian Federation

1. POSITIVE DEVELOPMENTS

1.1. In 2013, the Deputy-Prime Minister of the Russian Federation created an inter-ministerial working group to draft strategies to identify care, assistance and reeducation ways and means for mentally disabled children[1]. Civil society organizations, including the Center for Curative Pedagogics (CCP) - member of BICE network serves in the working group – were associated to the process that finally led to significant improvements. Indeed, besides the 2 July 2013 Act on amendments to legislative acts concerning care for orphans and children left without parental care, the Government Decree n°481 of 24 May 2014[2] stated that all relevant institutions should have unique regulation rules and procedures regardless the ministries they depend on. Hence, national education, public health and welfare systems have come under a single coordination structure. Thus, State-run institutions are not allowed anymore to provide in-house education to children who have to attend school outside, according to the inclusive education policy. In addition, the living conditions in institutions have been adapted to a family-type model. Most importantly, children with mental disabilities received support from regular caregivers for more consistency and monitoring of their development.

1.2. Progressively, the wording "orphanage" has been replaced by "centre enabling familial education" where attention is significantly focused on children abandonment prevention, with sound support provided to foster adoptive and biological families. It was a major change both in the mentality and in the practice as allowing children to go back home was not rooted in society. In the past, the majority of young children placed in these institutions used indeed to be transferred to adult psycho neurological State-run residential institutions, once they reached 18.

1.3. Measures aiming at decreasing the placement of children in institutions receive more attention from authorities and the school enrolment rate of institutionalized children is rising. Previously totally closed to the public, State-run residential institutions for children with mental disabilities are more and more open and even accept volunteer workers. Various types of alternative placements have been developed and experimented, including with volunteer families who welcome the child in their home for weekends or holidays if the child wishes so.

1.4. For instance, in the Pskov region, the fruitful collaboration between social service provider's organizations and the municipality structures significantly reduced the number of non-orphan children placement. It is only 8% in Pskov, 35% in Moscow, 50% in Kurgan region, 61% in Saint-Petersburg and 65% in Khakassia.

Review of Placement Challenge

1.5. The Federal Act n°212-FZ of 21 July 2014 on Basic principles of public control in the Russian Federation provides for legal basis for public inquests. This law genuinely established the scope of public control over the functioning of State bodies, local governments, and municipal entities to ensure the protection of human rights and freedoms for citizens, including for people with disabilities. Therefore, individuals, associations and NGOs as subjects of public control can exercise public review, examination, hearing and monitoring in State-care orphanages and institutions where disabled children are placed. This legislation has somehow strengthened cooperation and dialogue between local authorities and civil society organizations to address the institutionalization issue. Since the law entered into force in August 2014, dozens of public controls have been conducted by NGOs in institutions taking care of children with disabilities and the outcomes have been discussed with municipalities. Concerns remain however with regard to the implementation of the findings and recommendations of such a control.

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[1] Nowadays, the Russian Federation is restructuring its State-run residential institutions for children with mental disabilities. Whilst in 2010, there were 144 State institutions of that kind where 35'000 children have been placed, the number has decreased to 122 State institutions accommodating 30'000 children.

[2] Government Decree n°481 of 24 May 2014 on the "Activity of Organizations for Orphan Children and Children without Parental Care and on Placement of Children without Parental Care in them".

2. ISSUES OF CONCERN

Non-Orphan Children Institutionalization

2.1. In the Russian Federation, 70% of children placed in institutions are not orphans:

- 30% of institutionalized children are not orphans. Even if some of parents receive financial incentives, they do not visit their children and have no contact with them. For one reason or another, these parents are not in a position to provide them with the necessary and required care and counseling compatible with their disability;
- 40% of children in institutions have parents who have been deprived of parenthood according to article 69 of the Family Code.

2.2. In Moscow, there are seven State-run residential institutions for children with mental disability that accommodate 1'830 young children, from which orphans represent roughly 7% of the total number. The rest is what can be called "artificial orphans". Their parents are still alive but their children are institutionalized for various reasons. The majority of children remain permanently in institutions; only 11% of them go home during weekends. There are fewer children in day-care groups because of the challenges related to accessibility to common transportation for children with disabilities.

Consequences of the Separation of Children with Disabilities from Their Parents

2.3. Despite the significant efforts undertaken, separations of babies with disabilities from their parents remain an issue of concern. In fact, according to articles 69 (Deprivation of Parenthood), 71 (Consequences of the Deprivation of the Parenthood), and 73 (Restriction of Parental Rights) of the 1995 Family Code, parents can be deprived from parenthood in specific cases mentioned in the law, but these provisions have been misused, especially for children born with disabilities.

2.4. During the last decade, even if the situation has improved in some circumstances, doctors continue to "recommend" at birth that parents abandon immediately their babies if they present some symptoms without even proper certification. If they refuse to follow these "recommendations", parents face problems when it comes to enroll the child at school. Parents feel forced to accept the separation. The big majority of these children can only pretend to go to "auxiliary schools" or "remedial classes" despite the 29 December 2012 Education Act on inclusive education. In addition, kindergartens, schools and others necessary services and facilities are not available to accommodate children with disabilities. The placement of children in institutions is also linked to the lack of abandonment prevention and the lack of adequate support to families to avoid the institutionalization.

Care, Support and Living Conditions in Institutions

2.5. The outcomes of the inter-ministerial working group unveiled that in State-run residential institutions for children with mental disabilities, care-givers and nurses represent 80% of their staff whilst educators are only 20%. The lack of qualified professional staff for the development, stimulation, treatment and rehabilitation of these children has therefore to be seriously addressed.

2.6. The Committee on the Rights of the Child pointed out abuses on children by their educators in institutions[3]. It has been reported that children in some institutions do not receive sufficient attention, care and assistance. In some cases, they are exposed to violence in their families who are unable to provide them with adequate care, absorb financial implications and afford energy and time that home care requires.

3. RECOMMENDATIONS

3.1. Recommendations to the Government of the Russian Federation:

- a) Improve early diagnostic of children with mental disabilities to prevent their placement and mobilize every possible resources (human, financial and technical) at the family, pediatric hospital, State-run residential

[3] CRC/C/RUS/CO/3 (2005), §§ 46-47.

institutions, foster family and care institution levels to prevent child abandonment and separation of children from their parents, which has to be a measure of a last resort;

- b) Provide families and foster families with training on child-nurture as well as due technical and financial support to carry out required care and counseling enabling children to live at home and to promote their social inclusion;

- c) According to the 29 December 2012 Education Act, improve efforts in including children with disabilities in the mainstream system of education through their enrolment in regular schools and consequently avoid education in corrective and auxiliary schools;

- d) Prohibit permanent placement of non orphan disabled children and children deprived of parental care, conduct periodic review of all types of placement, and duly implement relevant steps of the 2009 UN Guidelines for the Alternative Care of Children[4], bearing in mind that institutionalization must be a measure of last resort and limited to cases where it responds to the best interests of the child;

- e) Develop alternative placement models (e.g. homes for disabled children; autonomous residence; supervised autonomous residence, etc.), including for 18 years young children and beyond;

- f) Conduct public education and awareness-raising campaigns to encourage support intervention of civil society actors towards families taking care of children with disabilities, and to promote early diagnostic of risks at birth;

- g) Encourage volunteering in State-run residential institutions to make them accessible and more open to the public;

- h) Abolish hospitalization in psychiatric institutions as a punishment for misbehavior;

- i) Undertake legal and policy reforms that can enable children with disabilities to access public infrastructures, including public transportation means;

- Ensure independence of public controls and remove all impediments to that exercise, and undertake every possible step to implement the control outcomes[5].

The Center for Curative Pedagogics (CCP), an NGO without consultative status, also shares the views expressed in this statement.

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[4] A/RES/64/142, Annex, §§ 23, 31, 34 b) and 132.

[5] It is important that NGOs make effective use of the public control opportunity by acquiring subject of public control status and establishing in partnership with local authorities: i) procedures for the monitoring, review, examination, discussion and hearings; ii) case management; iii) timeline for the implementation of inspections outcomes.

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Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Catholic Child Bureau, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02644(E)

Please recycle

Institutionalization of Children with Disabilities in Kazakhstan

I. POSITIVE DEVELOPMENTS

Legal and Policy Improvements

1. The Law n° 39-III of 13 April 2005 on "Social Protection of the Disabled" followed by the Government Decree n° 1266 of 21 December 2005 created a Coordination Council in the field of "Social Protection of the Disabled". As for the Government Decree n° 754 of 20 July 2005 on several matters relating to rehabilitation of people living with disabilities, it provides for the Rules for granting prothesis and technical equipment to persons with disabilities, the Rules for granting special equipment for moving persons with disabilities, and the Rules for granting sanatorium treatment to persons and children with disabilities. In addition, to take into account specific needs of children in early childhood, the Law n°114-IV on Special Social Services of 29 December 2008[1], creates conditions to a child (family) with special needs for his/her social and cognitive development.

2. In 2011, the 2012-2018 Plan of action to promote the rights and quality of life of persons with disabilities has been adopted. The 2011-2020 State Program of Education Development aims at covering 50 % of children with disabilities' inclusive education: 9% in 2010, 25% in 2015 and 50% in 2020. In its national report to the Universal Periodic Review process, Kazakhstan asserted that "the proportion of schools capable of providing inclusive education must reach the target of 70% of the total number of general education schools by 2020"[2]. Furthermore, a coordinating Council on Social Protection of Persons with Disabilities has been set up.

3. The establishment of day-care centers has been instrumental as it encouraged family-based care and allowed for the deinstitutionalization of many children living with disabilities, even if families still need more social benefits and financial support.

II. ISSUES OF CONCERN[3]

Social Services Delivery and Violation of the Rights of Children with Disabilities

Trained Staff in State-run Residential Institutions

4. Despite the governmental efforts, children-care institutions lack specialized teachers and professionals to deliver adequate support than can improve stimulation and development, allow educators to ensure relevant activities towards autonomy, rehabilitation and reintegration of the child. Therefore, children with severe disabilities are sometimes neglected and left out without proper care and suitable development activities.

Violence against Children in State-run Residential Institutions

5. Violence in State-run residential understaffed institutions is most of the time generated by the poor quality of the relationship educators/children as well as the child living conditions. Children's personalities as well as some uncontrolled, self-harm and aggressive behaviors linked with their disabilities are not properly managed by care-givers often overwhelmed by the workload and the high number of children they have to take care. Some educators complained about the low salary they get. In some cases, support methods are abusively implemented limiting

[1] Amended on 10 July 2012.

[2] A/HRC/WG.6/20/KAZ/1, § 230.

[3] Kazakhstan has one of the highest rates in children with disability under 18 years old among CIS countries. Whilst the rate is 1,33% in Kazakhstan, it is 0.80% in Tajikistan in 2012, 0.55% in 2005 in Turkmenistan, 1,25% in 2012 in Kyrgyzstan and 1.88% in the Russian Federation in 2010 (Situation Analysis of Children with Disabilities for the Development of an Inclusive Society in the Republic of Kazakhstan, UNICEF, 2014, p. 17).

stimulating activities. Due to abuse and neglect, and verbal, psychological and physical violence, including corporal punishment, some children run away from institutions.

Social Services Provided by NGOs

6. Civil society organizations (CSOs) have been associated to the special social service delivery to children with disabilities. However they do not receive apposite support from the Government. Consequently, they are constrained sometimes to disrupt services' provision when allocated resources are exhausted. These interruptions have negative impact on children, threaten previous efforts, and jeopardize progress made so far by the children.

Early Intervention Challenge

7. The Ministry of Health Protection and Social Development is clearly pushing for the imperative need to implement an early intervention programme for children between 0 and 3 years old who might be affected by development disorders. Nonetheless, in practice, insufficient progress has been made from the Government side. It is proven that 0-3 is a critical period for children, even more for children with disabilities, and needs due attention and investments for pre-schooling. Convinced that early intervention could significantly reduce the institutionalization of abandoned children affected by development troubles, CSOs strived to increase endeavors in that regard. Early multidisciplinary care, support, counseling is likely to avoid the deterioration of symptoms, severe disabilities, and ultimately increase chances of recovery.

8. Despite the Ministry of Health orders n° 83 of 29 January 2003 and n° 478 of 28 September 2009 on "On approval of the Rules for organization of screening of psychological and physical disorders of the early age children", Governmental policies on early interventions and the required collaboration with local executive bodies are still insufficient. Effective actions would have drastically decreased the institutionalization of children, including non-orphan children in State-run institutions, and set up an appropriate environment for the education and rehabilitation of children with disabilities.

9. BICE partner KENES run a rehabilitation center and provide consultation, counseling and early intervention services for young parents of children with disabilities in view of better assessing, certifying and guiding their children to competent services, adequate care, nurseries, kindergartens and schools.

Inclusive Education

10. Inclusive education is a key tool for deinstitutionalization. The State Program of Education Development for 2011-2020[4], identified the increasing number of children with disabilities as a challenge, and recognized that in 2010 "inclusive education has not been developed yet". During his visit to Kazakhstan in September 2011, the Special Rapporteur on the Rights to Education, Kishore Singh, stated that "inclusive education has not yet been developed, and facility provisions to meet the needs of students with physical disabilities have largely yet to be established"[5] and that "specific action is also required to ensure adequate education opportunities for persons with disabilities"[6]. Four years later, in September 2015, the Committee on the Rights of the Child was concerned that "there remains challenges with regard to pedagogical and psychological assistance provided in schools to implement inclusive education and that large numbers of children with disabilities are still not enrolled in mainstream schools or kindergartens"[7].

11. Therefore, it is quite a paradox that the education of children with disabilities does not fall under the regular education regime and the Ministry of Education has no competence over this topic which is dealt by the Ministries of Labor and Social Affairs, and Health.

12. In addition, the education system is not effectively inclusive. Children living with disabilities are placed in boarding schools and special remedial institutions. Many public schools are not adequately equipped, including with school infrastructures such as classrooms, and pedagogical tools to accommodate these children with their specific needs.

[4] Approved by the Presidential Decree n°1118 of 7 December 2010.
[5] A/HRC/20/21/Add.1 (2011), § 69
[6] Op. cit, § 6.
[7] CRC/C/KAZ/CO/4 (2015), § 40.

There is also a deficit of trained teachers to properly provide them with disability-adapted education. As a result, many schools refuse enrolment of children with disabilities.

III. RECOMMENDATIONS

13. We recommend the Government of Kazakhstan to:

a. Strengthen its national legal framework by ratifying the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and adopt a comprehensive national strategy in accordance with articles 23 and 27 of Convention on the Rights of the Child, the General Comment n°9 (2006) of the Committee on the Rights of the Child, and the General Assembly resolution 48/96 on Standard Rules on the Equalization of Opportunities for Persons with Disabilities, so as to facilitate and sustain *inter alia* the deinstitutionalization process.

b. Effectively implement early identification and intervention programmes for early support and care to avoid systematic institutionalization and irremediable situations.

c. Ensure effective implementation of the quota policy, flexible curriculum, and adapted equipments, to guarantee full access to children with disabilities to public preschools, schools and kindergartens.

d. As alternatives to institutionalisation, ensure family-based care options with adequate support services and sufficient social benefits for families to provide care at home for their children, and when institutionalisation is inevitable, place children as nearer as possible to their parents' home.

e. Provide initial, continued and specialized training to professional staff working with or for children with disabilities, such as medical, paramedical and related personnel, teachers, social workers, and other care givers, including on innovative approaches to special education, severe disability management, and genuine stimulation methods.

f. Establish a monitoring system, with the participation of local executive bodies and CSOs, to regularly assess the quality of services towards inclusive education and within residential institutions, including revision of placement decisions, the control of living conditions, analysis of complaints from children, and prevention of violence and deaths in residential institutions.

g. Combat violence against children with disabilities in State-run residential institutions and schools, allow children to report abuses, and ensure that genuine child-friendly pedagogical methods are implemented.

h. For the improvement of legislations, policies and practices, establish a comprehensive disaggregated data collection system to gather accurate statistical data on children with disabilities in Kazakhstan.

KENES, an NGO without consultative status, also shares the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Catholic Child Bureau, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Online Child Sexual Abuse in Poland

1. Legislation

1.1. Chapter 25 of the Penal Code entitled "Crimes against sexual freedom and decency" and especially its articles 202 § 3 (), 202 § 4b (virtual child pornography) globally follow the spirit of articles 19 and 34 of the Convention on the Rights of the Child. Provisions contained in article 197 are related to sexual intercourse by force, illegal threat or deceit subjects and rape whilst article 200 refers to sexual intercourse with a minor less than 15 years old subjected to a sexual act or submitted to perform such an act. Taking into account the increasing number of cases of online child abuse, article 200a on "grooming" introduced by the 5 November 2009 amendments to the Penal Code, allows for penalisation of seducing children online. Furthermore, April 1990 amendment of the Act on the Police has already introduced the possibility to ensure control with regard to offences under the new article 200a. In addition, Poland ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) on 20 February 2015 which entered into force on 1 June 2015.

1.2. Recommendation:

(a)Harmonize the domestic legislation with the Lanzarote Convention, including articles 18 to 23 and the investigation, prosecution and procedural provisions, taking into account current gaps in the national legislation as well as the opinion on article 23 and its explanatory note adopted by the Lanzarote Committee on 17 June 2015[1].

2. From the Increasing Access to the Internet to the Growing Threat for Children in Poland

2.1. Like elsewhere in the world, Information and communication technologies (ICTs) increase access to the internet in Poland, offering empowerment tools for people, including children and adolescents who expose themselves to both opportunities and risks. As children access to the internet is increasing and technological innovations transform the relationships, interactions and societies around the world, the threats to the safety of young people– including new types of child sexual abuse and exploitation – also increase.

2.2. The exposure to harmful online content is a reality, a situation in which a child accidentally or intentionally views pornographic or other content that is judged as detrimental to his integral development. European Union NET ADB research conducted by *Nobody's Children Foundation*[2] in 2013 shows that 67% of respondents aged 14-17 have come across pornographic content online, and 32% of them have found the experience disturbing and unpleasant[3]. It is more common for boys to experience exposure to pornographic materials. Internet has become a setting in which pornography is easily accessible, and even extreme forms of pornography are not efficiently protected from access by young people.

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[1] See also the General Comment n° 13 by the UN Committee on the Rights of the Child on "The right of the child to freedom from all forms of violence", CRC/C/GC/13 (2011).

[2] Nobody's Children Foundation (NCF), BICE partner in Poland, launched in 2004 a national campaign called "You never know who is on the other side" to addressing the problem of online grooming. In 2010, as an answer to the long-awaited amendment to the Penal Code, concerning penalization of online grooming, the campaign was reinforced and extended as "Every step online leaves a trace". The other NCF media campaign in this area also included a recent "I think, therefore I don't send" campaign addressing the problem of sexting among youth. As part of the national program "We protect children" implemented with Ministry of Education, NCF initiates systemic solutions in schools across the country. In the field of online safety and new technologies, those solutions comprise of three main processes: education and capacity building (of professionals working with children and youth, education of children and youth and parents), implementation of procedures of responding and support (towards victims, perpetrators and bystanders), construction of secure internet/Wi-Fi infrastructure on the school premises. Moreover, NCF operates two helplines: 116 111 for children and youth and 800 100 100 for parents and professionals experiencing safety concerns about children that allow for detection of abuse and support of children and youth.

[3] Research on Internet Addictive Behaviours among European Adolescents, 2013.

2.3. Due to the expansion of the availability and accessibility of ICT, offenders are able to gain easier access to children via social media, social networking sites, community games, chat rooms, blogs, online forums and other online communication tools. It is also much easier to access information about the victims. Young people have a tendency to uncritically share their personal information, often neither understanding the risks associated with such behavior nor the characteristics of social networking sites as geotagging, geolocating or checking in which make it easier for offenders to gain knowledge of the child location. Personal information found online can greatly facilitate the grooming process, as perpetrators can tailor their approach based on that knowledge.

3. Digital Poland and Online Child Sexual Abuse (CSA)

3.1. The Operational Programme Digital Poland 2014-2020 plans to strengthen digital foundations for the country socio-economic development but aims neither at fostering access to internet at school nor including children as such. Digital Poland could have been instrumental in maximizing internet benefit to children and safeguarding their best interests through a series of prevention, assistance and protection mechanisms to minimize risks on internet and social media. At the digital age where internet and social media become a "playing ground" for children and adolescents, early education programs at school are needed to sensitize, inform and educate them about safe navigation and risks they could encounter.

3.2. Recommendations:

(a) Current objectives of the Digital Poland 2014-2020 should further integrate schools as key State institutions to benefit from the program and implement effective awareness and sensitization courses that associate parents;

(b) For the protection of (potential) victims, implement procedures and enforce support mechanisms that are transparent, accessible and enforceable in schools as well as in other child care or training institutions.

4. Online Grooming

4.1. Even though it is difficult to give precise statistics on the magnitude of online grooming in Poland, because of the underreporting cases, some grooming reported cases allow for some indications. Hence, between October 2014 and October 2015, there were 159 cases reported to helpline 116 111 operated by *Nobody's Children Foundation*. Five years ago in 2010, a legal reform of the Polish Penal Code (PC) introduced new protection provisions for children.

4.2. As a result, the number of initiated proceedings and crimes recorded has been gradually increasing. From only 34 cases for initiated proceedings and 6 recorded crimes reported in 2010, statistics reached 156 for initiated proceedings and 129 recorded crimes in 2014, an increase of 53% and 75% respectively[4] in four years.

5. Sexting

5.1. Research conducted in 2014 for *Nobody's Children Foundation* shows that 11% of young people sent sexually explicit or sexually suggestive materials, while one-third of the respondents received such materials (photos or recordings). This alarmingly phenomenon of sexting has been confirmed during meetings and activities with youth conducted by NCF trainers, during which the problem of sexting is often raised by youth themselves. In addition, it is mirrored in the helpline reports. Increasingly noticeable issue is broadcasting of live sexual activities via such portals as *showup.tv*, which is in theory addressed to adults however it can be easily accessed by everyone and there have been reports of minors performing sexual acts live for profit. Mass availability of devices with internet access has increased the production of self-generated sexual content and eased the distribution process – such materials are often disseminated without the consent of the creator or maybe obtained and distributed from children's hacked accounts, computers or other devices.

6. Prevention Policies and Measures

[4] In 2011, 64 initiated proceedings and 62 recorded crimes; in 2012, 84 and 74; and in 2013, 129 and 132.

6.1. Poland has not a specific prevention programme dealing with online and offline child sexual abuse despite the harmful impact of both online and offline child abuse. Schools, children, parents and community as a whole as well as the internet, software and hardware industry are not adequately sensitised, informed, formed and educated to appropriately prevent and address sexting, grooming and other online risks and abuse.

6.2. Recommendations:

(a)Establish a mandatory self regulatory framework for private sector companies dealing with internet, including mobile phones, computers, network hardware and software providers to fight online abuses;

(b)Ensure that internet providers, sex and ICT industry as a whole, set up on the web and other accessible public online products, safety nets that inform children about potential danger, how they can get help and allow for abuse reporting;

(c)Implement national sensitization and awareness raising campaigns mobilizing schools, children and youth institutions as well as parents in order to maximize opportunities for accessing internet and minimize risks for children, and ensure effective collaboration between all concerned stakeholders;

(d)Strengthen the ongoing capacity building among professionals working with children and youth.

7. Investigation and Prosecution of Online CSA Cases

7.1. As for online sexual abuse, article 19 of the 6 April 1990 Act on the Police provides the police with legal resources to order operational control or preliminary investigation where there are reasonable suspicions of online abuse or beginning of abuse. However, the provisions do not specifically touch upon the complex situation of online evolving exploitation modus operandi of internet wrongdoers. Multifaceted and complex situations required sounds and suitable solutions. Yet, the police needs more innovative technical investigation tools to counter cyber criminality. In addition, the current legal framework does not give police all necessary means to investigate grooming, bullying and sexting cases.

7.2. Recommendations:

(a)Create a special police unit duly mandated and appropriately equipped to track cyber wrongdoers abusing children online and provide specific training to its officials on the rights of the child;

(c)Establish child friendly mechanisms for online and offline CSA reporting *inter alia* through reinforcement of helpline services that should be free and accessible, and connect victims or children at risks to appropriate child adapted counselling and rehabilitating services;

(d)Create a permanently updated database with information related to online abusers and ensure effective cooperation with Interpol in terms of data sharing for investigation and tracing of alleged child abuse perpetrators online;

(e)Establish or strengthen cooperation between Polish police and investigation services and Interpol to better track cyber criminals inside and outside Poland.

Nobody's Child Foundation (NCF), an NGO without consultative status, also shares the views expressed in this statement.

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Human rights situations that require the Council's attention

Written statement* submitted by the Marangopoulos Foundation for Human Rights, a non-governmental organization in special consultative status

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Please recycle

The refugee and migrant crisis in need for a prompt and comprehensive UN response

Undoubtedly, Europe is currently confronting one of the most significant refugee and migrant crisis in its history after the Second World War. The number of refugees and migrants entering into Europe has reached unprecedented levels, thus putting huge pressures on Europe and sparking division within the European Union (EU) over how best to deal with this emergency. In 2015 alone, the influx of refugees and migrants exceeded one million (1,046,599 arrivals), according to the latest figures issued by the International Organization for Migration (IOM)[1]. As the conflict in Syria – arguably, one of the major causes of the ongoing refugee and migration emergency – will continue unabated, projections on the number of migration flows for the following years are alarming. According to the UN Refugee Agency (UNHCR), it is estimated that "in 2016 up to one million refugees and migrants could attempt to use the Eastern Mediterranean and Western Balkans route to Europe",[2] while overall figures for the EU rise to three millions according to the European Commission.[3]

The Marangopoulos Foundation for Human Rights (MFHR) remains deeply concerned by the rising toll on human life and disappointed by the inadequacy of the responses given so far. In particular, the migration and refugee crisis has acutely revealed the limits of the EU's migration and asylum policy. Its collective response has been *ad hoc*, focusing on securing its external borders in order to stem the migration flow than on protecting the rights of refugees and migrants.

It should not be forgotten that asylum seekers and migrants are all entitled to protection of their human rights under international law as enshrined under the Universal Declaration of Human Rights which in art.2 explicitly stipulates that everyone, without any distinction whatsoever, is entitled to human rights. It is therefore imperative that states pursuant to their obligation to adhere to the international standards of human rights protection ensure that asylum seekers and migrants are properly and individually assessed in order to establish their specific protection needs, including their protection against trafficking and exploitation. In this regard, special attention must be paid particularly to the vulnerability of unaccompanied children. According to Europol, at least 10,000 unaccompanied child refugees have "disappeared" after arriving in Europe and there are fears that they might have fallen into the hands of organized trafficking and other criminal networks.[4] This is a particularly alarming trend to which states should pay immediate attention, as children are entitled advanced international protection pursuant to the 1989 Convention on the rights of the child.

The tide of migration flows is unlikely to stem in the foreseeable future. Even if the conflict in Syria came to an end now, its repercussions with regard to migration would have lasting effects in the years to come. Migration has been and will continue to remain high on the international agenda. This is why the MFHR notes with concern the absence of this issue from the Programme of Work of the Human Rights Council. The issue of migration is also included in the newly adopted post-2015 Development Agenda, according to which governments are committed to "facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies" (Millennium Development Goal: 10.7).

As a result, creating of a fortress Europe offers no response to the refugee crisis. On the contrary, it only forces asylum seekers and migrants to use more dangerous alternative routes via the Mediterranean Sea, thus causing a devastating toll on human life. According to the IOM, Europe is the "most dangerous destination for irregular migration in the world",

[1] Out of the 1,046,599 arrivals, 1,011,712 refugees and migrants arrived by sea according to the IOM website: http://migration.iom.int/europe/ (last accessed: 15.02.2016). For the statistics of the UN Refugee Agency (UNHCR) please consult the following link: http://data.unhcr.org/mediterranean/country.php?id=83 (last accessed: 15.02.2016).

[2] https://data.unhcr.org/mediterranean/download.php?id=521 (last accessed: 15.02.2016).

[3] https://ec.europa.eu/migrant-integration/news/eu-wide-economic-forecast---small-increase-in-spending-and-gdp-if-countries-successfully-invest-in-newcomer-refugees?pdf=1 (last accessed: 15.02.2016).

[4] http://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees (last accessed: 15.02.2016).

while the Mediterranean "the world's most dangerous border crossing".[5] This can be attributed to the absence of safe legal channels for refugees and migrants to enter the EU territory, which has enabled unscrupulous smugglers to develop their business by exploiting desperate individuals who have no other option.

Hence, what is urgently needed is the creation of safe and regular channels of migration as part of a robust coherent, comprehensive and coordinated response to the refugee and migrant crisis which is still lacking. It is highly crucial to create an effective, fair and sustainable mechanism for "burden" sharing with regard to asylum-seekers and migrants not only in Europe, but among all UN member states. More large scale emergency reception, registration and screening centres must be set up and be fully operational the soonest possible in countries like Italy and Greece which have received the largest portion of the migration flow so far. However, these frontline countries cannot be left alone in assuming the "burden" of this challenge and must be supported with staff and technical assistance. This "hotspot" concept will accelerate the identification procedure and will enable asylum-seekers to move further to their desired destination. However, as the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, has warned, these hotspots should not in effect operate as "detention centres in disguise".[6]

Moreover, attention should be paid to a rather neglected aspect of the migration issue. Refugees and migrates constitute vulnerable groups of people that are increasingly reported to have fallen victims of racial discrimination, racist attacks, xenophobia and ethnic intolerance. The use of racist and xenophobic language against refugees and migrants is appalling and all governments must reject any advocacy for hatred that constitutes incitement to discrimination, hostility or violence. Moreover, it should be widely understood that government practices such as razor-wire fences, the confiscation of assets and the vilification of people seeking refuge by state officials are inconsistent with the values of dignity and human rights which both the UN and the EU was founded upon and do not help to create a climate of compassion and support by the local communities that are called upon to host refugees and migrants. Arguably, this may be attributed to the fact that little attention has been paid so far to the positive contributions that refugees and migrants can make to the societies in which they settle, especially as regards the labour market and the potential for an effective boost of the local economy.

Given the current unsatisfactory and inadequate response at the regional level, it is high time for the UN and especially its most competent human rights agency, the UN Human Rights Council, to reclaim its role as a true advocate of human rights by undertaking concrete steps to safeguard in practice the human rights of asylum seekers and migrants. The MFHR calls upon the UN Human Rights Council to adopt a Resolution under which it shall adopt the following measures. In particular, the Council shall:

- assist governments to establish a human-rights based coherent and comprehensive refugee and migration protection mechanism that would offer long-term and lasting solutions to the pressing migration issue.
- ensure that the design of border management is protection-sensitive and that refugees will not end up staying in detention centres. In order to ensure this, the principles of shared responsibility and solidarity shall underpin every designed action.
- encourage states to widely use awareness-raising campaigns as a potent tool to effectively tackle the resurgence of voices of racism and xenophobia, thus also enhancing the integration capacity in resettlement countries.
- call upon states to initiate campaigns targeted to the vulnerable groups of children and women that would provide them with information about their rights and the protection that they are entitled to receive under national and international law. National and international competent authorities such as Europol should collaborate more closely in order to effectively tackle human trafficking.

It is beyond any contestation, that the continuous flow of refugees and migrants poses a great challenge to the international community, a challenge which must be effectively and successfully addressed if human rights are to be upheld.

[5] https://www.iom.int/statements/iom-releases-new-data-migrant-fatalities-worldwide-almost-40000-2000 (last accessed: 15.02.2016).

[6] http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16570&LangID=E (last accessed: 15.02.2016).

Above all, it must be ensured that whether classified as refugees or migrants, these people are all entitled to protection based on international law and in particular on the human rights law, humanitarian law and refugee law international standards.

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Human rights bodies and mechanisms

Written statement* submitted by the Association for Defending Victims of Terrorism, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

Necessity of Establishing a Structure to Defend the Rights of Victims of Terrorism in Human Rights Council

According to official statistics of bodies in different countries, the number of victims of terrorism is increasing catastrophically on different levels in such a way that each year it increases drastically, threatening the health and future of human beings.

As terrorism continues to spread, it violates many principles and norms of international law and basic human rights, including the right to life and security, and it necessitates more than ever before the formation of an international consensus to fight against the heinous phenomenon.

According to official statistics of international bodies, in 2014, thirty two thousand six hundred and fifty people were victimized in the world which unfortunately indicates a growth of 80 percent of the number of victims of terrorism compared to 2013. Recent terrorist acts in Central Europe show that the geographical spread of terrorism is rapidly expanding from Syria and Iraq to other parts of the globe. Therefore, international determination and global cooperation to prevent and combat terrorism is urgent more than ever before.

Thus,
Expressing deep regret concerning the violation of fundamental human rights in the armed conflict areas and other parts of the world,
Considering the UN Human Rights Council's efforts to promote human rights and protection of the victims of terrorism,
Considering the importance and necessity of paying attention to the situation of victims, the injured and the displaced caused by terrorism based on human rights and humanitarian law,
Acknowledging and appreciating the positive approach of the United Nations Human Rights Council in the fight against terrorism and the promotion and protection of human rights

Association for Defending Victims of Terrorism states the following in order to achieve this important goal all over the world:

- In the fifth Article of Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted in 40/34 resolution on 29 November 1985, formation of such structure has been emphasized: "All appropriate measures should be taken to sponsor collaborative action-research on ways in which victimization can be reduced and victims aided, and to promote information exchanges on the most effective means of so doing; c) To render direct aid to requesting Governments designed to help them curtail victimization and alleviate the plight of victims; d) To develop ways and means of providing recourse for victims where national channels may be insufficient".
- Victims and sufferers of terrorist acts in the armed conflict areas are not the subject of any of the conventions on human rights and supportive structures of these bodies which necessitates the formation of the above-mentioned structure. Therefore, according to the authority and the role of Human Rights Council in preventing human rights violation, we call on UN Human Rights Council to consider formation of such structure.

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Human rights situations that require the Council's attention

Written statement* submitted by the Association for Defending Victims of Terrorism, a non-governmental organization in special consultative status

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Terrorism as the Worst Kind of Violence in Human History

Human history has witnessed various human catastrophe and cruelty in the world. Murder, crimes against humanity, war crimes, slavery, torture, kidnapping, beheading, and burning humans are some of the examples of human rights violation which have darkened the pages of history of humanity and made it painful. These pages are painful for a large number of humans and this problem has always repeated and humanity has witnessed the continuation such bitter incidents and massacre of innocent people in countries like Iraq and Syria.

According to the spread of terrorists' activities in the contemporary world and complication of their organization, and cooperation of hegemonic states with them have complicated the situation of this heinous phenomenon in the contemporary world, it is necessary to regard the structure of terrorism as a collection of threat to international peace and security that they all have a common factor based on crime and insecurity.

In Iraq, Syria and many other countries who are victims of terrorism and there are millions of displaced and the world has witnessed victimization and repetition of human tragedies again. The spread of threat and insecurity in most parts of the world causes great concern and requires states' attention to their international obligations in accordance with international law.

Acknowledging the support of international efforts to fight against terrorism and victims of terrorism, in the form of International Convention on Combating the Financing of Terrorism (1999), resolution 1373 (2001), resolution 1456 (2003) and resolution 1535 (2004) of the Security Council and resolution 2169 - 2170 - 2178 - 2199 and 2249 (2014 - 2015) of the Council against ISIS, and also resolution 17/8 (2011) Human Rights Council for declaring the International Day of Remembrance and Tribune Victims Of Terrorism and resolution 13/26 (2010) of Human Rights Council, it is worth mentioning that according to elites and prestigious circle of human rights in the international arena such measures have not been effective in order to ensure security and defense of human rights.

The importance of states' commitments to the principles of international law and humanitarian laws will be very effective in implementation of UN resolutions in widespread fighting against terrorism and the collective goals of nations.

The Association for the Defending Victims of Terrorism, taking into account the importance of the UN Global Counter-Terrorism Strategy adopted on 8 September 2006 emphasizes that promotion and protection of human rights should be considered by centralizing victims of terrorism is an essential component in the fight against terrorism. Accordingly the following items are recommended:

1- In addition to insecurity, terrorism is the most serious kind of violation of human rights in the contemporary world and it is essential to consider the motto of this ADVT "let us constrain terrorism by commemoration victims of terrorism" to start a new movement in the fight against terrorism. In this context special attention to the victims of terrorism in the law and international procedures will have a significant impact on the development of human rights standards and humanitarian law and also strengthen UN activities in the eradication of terrorism.

2- Emphasizing the need for justice for victims of terrorism, it is necessary that identification and verification of victims of terrorism by the bodies like the United Nations is considered as one of the examples of compensation.

3- In order to sympathize with the victims of terrorism all over the world, is recommended that the UN Human Rights Council name a year as the "solidarity with the victims of terrorism".

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

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GE.16-02649(E)

Please recycle

Ending discrimination based on caste and descent

Human Rights Watch and the International Dalit Solidarity Network (IDSN) look forward to the annual report of the Special Rapporteur on Minority Issues, Rita Izsák-Ndiaye. **We also welcome the** Office of the High Commissioner for Human Rights (OHCHR)**'s organization of a side-event on minorities and caste discrimination on March 16, 2016 at the Human Rights Council.**

The OHCHR has made the elimination of caste-based discrimination a strategic priority in its anti-discrimination work, and the High Commissioner **for Human Rights and the UN General Secretary have established caste as a ground of discrimination to be tackled on par with other forms of discrimination, such as race, gender, ethnicity, and sexual orientation.**[1]

Caste-based discrimination and analogous forms of discrimination affect approximately 260 million people globally, the vast majority living in South Asia.[2] Caste-based discrimination is also found in communities migrated from South Asia across the globe and in caste-stratified societies in Africa, the Middle East, and other parts of Asia. Caste-based discrimination is a violation of international human rights law, inherently contradicting the universal principles of non-discrimination, dignity, and equality. It is also a violation of the principles underpinning humanitarian assistance.

Despite commitments to end caste and descent-based discrimination, the practice persists due to poor enforcement of laws and policies. Due to entrenched and dehumanizing discriminatory practices by both state and non-state actors, Dalits in South Asia and other communities, such as the Muhamesheen in Yemen and the Haratines in Mauritania, are deprived of their basic civil, political, economic, social, and cultural rights. Affected communities face severe restrictions and limited access to resources, services and development, keeping most in severe poverty. As socially and economically excluded and marginalized communities, the rights to health, education, water and sanitation, security, political representation and access to decision-making in state and private institutions is often limited. Dalit women are particularly disadvantaged due to the intersectional discrimination of caste and gender. Dalit women suffer from multiple forms of discrimination based on caste, gender and poverty, which make them highly vulnerable to physical assaults, including rape and forced sex work, and other crimes which often go unpunished.

Dalits and many similarly affected communities also are disproportionately subjected to forced and bonded labor and have unequal access to employment, land, and markets. The vast majority of forced and bonded laborers in South Asia are from Dalit communities and minority groups. Caste-based prejudice has a negative impact on social welfare policies. For instance in India, Human Rights Watch found that discrimination by school authorities creates an unwelcome atmosphere that can lead a child to stop going to school, thus denying them their right to education despite an ambitious law promising universal access to basic schooling.[3]

Access to justice is inhibited by entrenched caste discrimination within the criminal justice system and enforcement agencies. In many affected countries, the police exhibit caste biases in perpetrating or colluding in atrocities against Dalits. In India, for example, atrocities and violence against Dalits are on a double-digit rise, whereas acquittal rates for these crimes remain extremely high. The attacks are brutal and inhumane, ranging from gang-rapes to the recent burning alive of two children in India's Haryana state. Police negligence and abuse of power in Nepal due to caste bias, also remains a massive obstacle to justice.[4]

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[1] UN High Commissioner and Secretary-General statements on caste, IDSN.org, http://idsn.org/un-2/high-commissioner-for-human-rights/ (accessed February 12, 2016).
[2] Caste-based discrimination in South Asia, IDSN 2009
http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201102/20110228_510eustudy_en.pdf
[3] Human Rights Watch, "They Say We're Dirty:"Denying an Education to India's Marginalized,
https://www.hrw.org/report/2014/04/22/they-say-were-dirty/denying-education-indias-marginalized
[4] Human Rights Situation of the Dalit Community in Nepal, Dalit Civil Society Organisations Coalition and IDSN
Joint UPR Submission Nepal November 2015

A special concern is the continued practice of "manual scavenging" in India – the cleaning of human waste by communities considered low-caste – due to non-enforcement of the laws prohibiting this discriminatory practice.[5]

Human Rights Watch and IDSN are concerned that the 2030 Sustainable Development Goals were adopted without any reference to millions impoverished and excluded due to caste discrimination. The goals are unlikely to be achieved without inclusion of specific indicators addressing caste-based inequality and exclusion.

Discrimination based on caste in humanitarian aid delivery is well documented, and prevailed also in recent humanitarian crises, e.g. in the aftermath of the earthquake in Nepal[6]. Caste-affected communities are either prevented from or receive less aid than others.[7]

The systemic and entrenched nature of caste-based human rights violations have been addressed by the UN Treaty Bodies, Special Procedures Mandate Holders, the former UN Sub-Committee on the Promotion and Protection of Human Rights, and in Universal Periodic Reviews. Human rights bodies have consistently raised their concerns on caste-related human rights violations and continuously urged governments to strengthen the protection of affected people through legislative, policy, institutional, budgetary and other measures. However, Fundamental challenges still remain in all caste-affected countries. Entrenched caste biases, lack of access to justice and effective implementation of policies remain core issues.

Recommendations

Human Rights Council

Human Rights Watch and the International Dalit Solidarity Network urge the HRC and member states to promote and endorse the draft UN Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent (UN P&G) published by the HRC in 2009 (A/HRC/11/CRP.3);

The HRC should adopt a resolution on the UN P&G and institutionalize regular reporting and effective dialogue on the elimination of discrimination based on caste and analogous forms of inherited status.

We urge the Human Rights Council, its member states and observer states to call on states affected by caste discrimination to:

- Act on the recommendations of the Special Rapporteur on Minority Issues in her report presented to the Human Rights Council at its 31st session;
- Enact and enforce anti-caste discrimination legislation; addressing as a priority the existing patterns of impunity for human rights violations against Dalits and other similarly affected communities as committed by both state actors and non-state actors, and ensure their fair and due access to criminal justice;
- Endorse the draft UN P&G and ensure their implementation through national action plans to combat caste-based discrimination; develop and implement national action plans with sufficient funding and clear objectives and measures for poverty reduction strategies, employment, health, education and access to basic services including water and sanitation; pay specific attention to the issues of caste-affected women, and conduct public awareness campaigns in coordination with affected groups;

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http://idsn.org/wp-content/uploads/2015/04/Dalit-Civil-Society-Organisations-Coalition-and-IDSN-Joint-UPR-Submission-Nepal-November-2015.pdf

[5] Human Rights Watch, Cleaning Human Waste; "Manual Scavenging," Caste, and Discrimination in India, August 25, 2014, https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india

[6] Nepal: Earthquake recovery must safeguard human rights – Amnesty International USA http://www.amnestyusa.org/sites/default/files/p4583_report_-_nepal_report_on_earthquake_web.pdf_-_adobe_acrobat_pro_0.pdf

[7] SASY/National Dalit Watch, No Respite for Dalits in Disaster Response, Tamil Nadu, 2015 http://idsn.org/20288-2/

- Take note of and act on the concluding observations and recommendations on caste discrimination by UN Treaty Bodies, Special Procedures Mandate Holders, and in Universal Periodic Reviews in the framework of national action plans;
- Develop specific indicators and use disaggregated data for the implementation and monitoring of 2013 Sustainable Development Goals;
- Take action on caste-based discrimination as a serious impediment to ensuring equality in disaster relief and rehabilitation, and develop appropriate disaster management laws, policies, institutions and programming in cooperation with humanitarian stakeholders and affected communities

United Nations Organizations

We call on the United Nations, including UN specialized agencies and UN Country teams to:

- Address discrimination based on caste and analogues forms of discrimination at all levels and promote the endorsement of the draft UN P&G and their implementation;
- Take due note of the development of a UN Guidance Tool on Discrimination Based on Work and Descent (to be published in 2016);
- Promote use of specific indicators and disaggregated data in relation to the implementation and monitoring of 2013 Sustainable Development Goals;
- Recognize and act on caste-based discrimination as a serious impediment to ensuring equality in disaster response in any future work on humanitarian standards, disaster relief and rehabilitation;
- Recognize discrimination based on caste and analogous forms of discrimination as a gross human rights violation which should be addressed in the context of the Durban Review Conference and in its follow-up mechanisms;
- Conduct country level studies on the situation of communities discriminated on the basis of caste and analogous systems of inherited status in under-researched regions; and initiate a thematic, regional level study in South Asia on violence against Dalit women and research on the nexus of caste discrimination and forced and bonded labor.

International Dalit Solidarity Network, an NGO without consultative status, also shares the views expressed in this statement.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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Please recycle

The grave situation in a number of states for individuals with no religion and those advocating secularist principles: Some recent cases

Notable trends affecting the situation for people with no religion

"Everyone shall have the right to freedom of thought" and "everyone shall have the right to freedom of expression" (ICCPR, Articles Article 18 & 19). And yet, secular voices are under increasing threat around the world.

In our last written statement [A/HRC/28/NGO/36] on the situation for people with no religion, we warned of an increase in hate speech and overt political marginalization targeting humanists, atheists, and proponents of secularist principles, including persecutory rhetoric issuing from heads of state and government and the violent manifestations of such rhetoric. Over the past year, this trajectory from rhetoric, to callous violence and harsh injustice, has become even more apparent.

We have seen the situation continue to remain extremely grave in the states mentioned in last year's statement specifically in relation to *state persecution* of those with no religion or those seeking to question religious beliefs; notably Egypt, Malaysia, Mauritania, and Saudi Arabia. Indeed, Egypt, Malaysia and Saudi Arabia have continued to pursue an explicit agenda of hatred against those with no religion; via, for instance, Egypt's 'war on atheism,' Saudi Arabia's law equating atheism with terrorism, and the Malaysian Prime Minister Najib Razak, labelling of humanism and secularism as "deviant" and a threat to the state itself.[1] In these states, as in many others, the charges of 'insulting religion,' 'blasphemy' and 'apostasy' have been key state mechanisms used for silencing those who seek to critique or just reflect upon religious ideas.

Some recent cases include:

- In December 2014, Mauritanian writer, **Cheikh Ould Mohamed M'Kheitir**, was sentenced to death for "apostasy." He had been arrested for publishing an article in which he sought to highlight the indentured servitude in Mauritanian society, often socially justified with reference to national cultural identity and in particular to Islamic tradition.[2] M'Kheitir remains on death row and in solitary confinement.

- In November 2015 in Saudi Arabia, Palestinian poet and artist **Ashraf Fayadh** was sentenced to death for "apostasy" (a sentence to be carried out by beheading by sword). Fayadh, a member of the British-Saudi art organization Edge of Arabia, was first arrested in August 2013 in connection with his poetry. He was accused of "spreading atheism", insulting "the divine self", insulting the Prophet Muhammad, discrediting the Quran and Hadith, and objecting to concepts of fate as acts of God.[3] On 2 February 2016, Fayadh's death sentence was overturned, and he was resentenced to eight years in prison and 800 lashes.

- Saudi secularist **Raif Badawi** who was lashed 50 times last year on the charge of "insulting religion," remains in prison.

- In February 2015, Egyptian student **Sherif Gaber** was sentenced to a year's hard labour for "contempt of religion" (he had declared his atheism on Facebook) and for promoting "debauchery" (he had challenged a lecturer who said that homosexuals should be "killed in the streets"). Gaber went into hiding following the sentence this year.[4]

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[1] A/HRC/28/NGO/36, p3
[2] http://iheu.org/iheu-condemns-death-sentence-for-apostasy-handed-to-writer-in-mauritania/,
[3] http://iheu.org/death-for-apostasy-must-not-stand-free-ashraf-fayadh/
[4] http://www.dailynewsegypt.com/2015/02/17/egyptian-student-given-prison-sentence-for-atheist-facebook-posts/

- In January 2015, atheist activist **Karim al-Banna** was sentenced to three years in jail for "insulting the divine" after declaring his atheism online. The prosecution had tried to demand that Al-Banna be sent to prison without trial. Al-Banna's name was included in a list of "known atheists" in a local daily newspaper, after which he was harassed by neighbours. He is now in hiding.[5]

Systemic environment of impunity and intimidation: Situations in decline

A country noteworthy in its increasing decline in ensuring freedom of religion or belief is India. The presidency of Narendra Modi has been linked to a rise in Hindu nationalism, with reports of attacks on religious minorities still increasing. Statistics on inter-communal violence show a 30% increase in the first half of 2015 with a total of 330 attacks, of which 51 were fatal. However, these statistics pale in comparison with the anti-Muslim riots in 2002 in Gujarat, with more than 1000 people killed in violent clashes after 60 Hindu pilgrims died in a fire on a train.[6]

Between 2013 and 2015, three prominent rationalists were assassinated, apparently because of their work combating superstition or Hindu nationalism. The authorities were quick to promise action, but were also accused of prematurely ruling out extremist Hindu nationalist parties.

- In August 2015, **M.M. Kalburgi**, a rationalist scholar and college professor, was shot dead in his home in the southern state of Karnataka by two unidentified male assailants. Kalburgi had received death threats following his criticism of idol worship during a seminar in 2014.[7]

- On August 20, 2013, leading anti-superstition campaigner **Narendra Dabholkar** was shot and killed by two men on a motorbike. The murder came just days after the state government pledged to re-introduce an anti-superstition bill, aimed at making it an offence to exploit or defraud people with 'magical' rituals, charms and cures. This bill was closely associated with Dabholkar's work. Dabholkar was a long-time activist in India's rationalist movement, founder-president of Maharashtra Andhashraddha Nirmoolan Samiti (MANS), an anti-superstition organization, and a leader of the Federation of Indian Rationalist Association, a member organization of the International Humanist and Ethical Union.[8]

- In April 2012, the Catholic Church filed a complaint under Section 295 of the country's penal code against **Sanal Edamaruku**, president of the Indian Rationalist Association. Edamaruku had reportedly exposed a supposed "miracle" by revealing that a weeping Jesus on the cross was actually the result of a leaking drain. The local police requested Edamaruku turn himself in and face the charges. He now lives in exile in Finland.

Whilst India's Minister for Minorities, Mukhtar Abbas Naqvi, has said that "you cannot judge the government with isolated incidents of violence or isolated statements by some ministers," this violence has happened against a backdrop of a number of BJP politicians making deeply derogatory remarks about minorities - including, Niranjan Jyoti implying that non-Hindus were bastards by saying "should the country be led by sons of Ram [a Hindu god] or by sons of bastards?"

The existence of vigilante violence is not only indicative of the climate of fear and violence in which some people associated with non-belief are forced to live, but it also points to governmental responsibility in creating an atmosphere conducive to civil violence against non-believers.

Moreover, a culture of impunity that exists in some countries where perpetrators know they will not be pursued or brought to justice for the crimes they commit against non-believers also plays a significant role in allowing for a climate of horrific mob violence. The case of Bangladesh, as reported in our written statement [A/HRC/29/NGO/69], perhaps represents the single worst example of this degradation of secular rights and the security of the non-religious in the past year. Combining suppression by the state, as well as the trend toward escalating violence by non-state actors. In 2015

[5] www.dailynewsegypt.com/2015/03/14/student-in-hiding-after-prison-sentence-for-atheism-confirmed
[6] www.bbc.co.uk/news/magazine-33241100
[7] www.time.com/4016747/mm-kalburgi-india-murder-rationalist-idol-worship-hindu-nationalism
[8] www.iheu.org/story/leading-indian-rationalist-assassinated-gunmen

four humanist writers, Avijit Roy, Washqiur Rahman, Ananta Bijoy Das, Niladri Chatterjee, were murdered in a series of separate, targeted machete attacks between February and August. One secular publisher, Faisal Arefin Dipan, was killed and others critically injured in coordinated machete and gun attacks on two publishing houses in October.

The Maldives too has had specific incidences emulating this kind of hostility towards those with explicitly non-religious beliefs. For instance, last year, the administrators of atheist Facebook pages were publicly identified, kidnapped by a 40-strong gang, compelled to "recant" their atheism and hand over passwords to their accounts. Anti-atheist Facebook pages have forced many secular Maldivians offline.

Positive Developments

Despite the deeply worrying situation we are witnessing in many states, there have nevertheless been some positive developments in terms of protecting freedom of religion or belief in the context of free expression; over the past couple of years, Iceland, the Netherlands and Norway have abolished their blasphemy laws.

Conclusion and recommendations

Discrimination and persecution against the non-religious in particular is very often bound up with political suppression, with fears about progressive values, or with oppression in the name of religion. Humanists and secularists are often among the first to ask questions, and to raise the alarm when human rights are being trampled, when religion is misused or abused, or — even with the best intentions — if religion has become part of the problem. Silence the non-religious, and you silence some of the leading voices of responsible concern in society.

Accordingly, the IHEU urges the Human Rights Council, UN experts and international community to:

- Put pressure on the relevant countries to release the imprisoned individuals mentioned here; and urgently call for Mauritania to quash the death sentence of Cheikh Ould Mohamed M'Kheitir and release him (N.B. The death penalty, according to international law, may only be used for the 'most serious crimes'; 'apostasy' does not meet that threshold – and indeed should not be a crime at all, since it is not a recognisably criminal offence in terms of international law, and it negates the right to freedom of religion or belief.)

- Recognise the explicit phenomena of a "war against atheists" authored and led by the states noted in this statement; and uncompromisingly condemn it as a violation of the right to freedom of religion or belief for those who identify with no religion.

- Remember individuals with no religion when investigating human rights abuses and discrimination against minorities.

As his term as the UN's Special Rapporteur for Freedom of Religion or Belief comes to an end, the IHEU would like to put on record its gratitude to Professor Heiner Bielefeldt, for his very fine, ever-enlivening, ever-enlightening work.

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Human rights bodies and mechanisms

Written statement* submitted by the European Centre for Law and Justice (Centre Europeen pour le droit, les Justice et les droits de l'homme), a non-governmental organization in special consultative status

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Please recycle

IRAQI AND SYRIAN CHRISTIANS AND OTHER RELIGIOUS MINORITIES TARGETED BY ISIS ARE VICTIMS OF GENOCIDE

1. INTRODUCTION

Christians in Iraq and Syria are under systematic targeting by ISIS, and are victims of Genocide. Genocide was first codified in the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). The Genocide Convention defines "genocide" as

> any of the following acts committed with *intent to destroy, in whole or in part, a national, ethnical, racial or religious group*, as such:"
>
> (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.[1]

The commission of any one of the acts without the violation of others is sufficient to constitute genocide.

The ECLJ and its international affiliates have gathered nearly 300,000 signatures calling for the recognition of ISIS' atrocities as genocide. The purpose of this submission is to urge the United Nations to do everything in their power to protect Christians and other religious minorities and stop genocide.

2. BACKGROUND

In the summer of 2014, ISIS leader, an Islamic caliphate (Islamic theocracy ruled by one Islamic ruler and governed by Sharia law) was created under Abu Bakr Al-Baghdadi. Since then, ISIS has systematically killed Christians and other religious minorities who do not adhere to ISIS' ideology. ISIS members have killed Christians and Yazidis by the thousands, have enslaved and raped thousands more because of their religion, and have destroyed their places of worship, their homes, and their livelihoods. Recent evidence shows that ISIS is, barbarically, burning Christians alive in locked caskets.[2]

In Iraq and Syria, Christians represent a small minority of the population, roughly 8% in Syria,[3] and less than 3% in Iraq.[4] The Christian population in both countries is rapidly decreasing. Tens of thousands of Christians have fled Syria in fear for their lives.[5] ISIS' religion-targeted abuses include "killings, rape, kidnapping, enslavement, theft . . . destruction of religious sites . . . sexual slavery, forced conversion, ransom demands, property seizures, and forced business closures."[6] In Syria, ISIS has beheaded and stoned men, women, and children for blasphemy, heresy, and

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[1]Convention on the Prevention and Punishment of the Crime of Genocide, 9 Dec. 1948, *available at* https://treaties.un.org/doc/Publication/UNTS/Volume%2078/volume-78-I-1021-English.pdf (emphasis added).
[2]Anuragh Kumar, *ISIS Burns Christians Alive in Locked Caskets, Escaped Prisoner Reveals*, CHRISTIAN POST(6 Jan. 2016), http://www.christianpost.com/news/isis-burns-christians-alive-locked-caskets-escaped-iraqi-soldier-islamic-state-prisoner-revels-154281/.
[3]BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP'T OF STATE, SYRIA 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 2 (2014) [hereinafter Syria Report].
[4]BUREAU OF DEMOCRACY, H.R. AND LAB., U.S. DEP'T OF STATE, IRAQ 2014 INTERNATIONAL RELIGIOUS FREEDOM REPORT 3 (2014) [hereinafter Iraq Report].
[5]Syria Report, *supra* note 3 at 2, 14.
[6]Iraq Report, *supra* note 4, at 1–2.

apostasy.[7] ISIS demands that Christians convert to Islam, pay a protection tax called jizya, or flee, punishing by death those who fail to comply.[8]

ISIS' notorious abuses are targeted primarily against religious minorities.[9] In June 2014, after ISIS seized the city of Mosul, Iraq, it demanded that Christian residents either convert to Islam, pay a tax for protection to ISIS, or be executed.[10] Several important religious sites and Christian institutions in Mosul were destroyed.[11]

Similarly, Christians living in Raqqa City, Syria, were forced to flee their homes.[12] The property of the Christians who fled was confiscated, and all churches in the city were transformed into mosques.[13] Very few Christians remained in the city, and those who chose to remain and pay jizya were forced to pay ISIS a tax totaling $335 per family per year.[14]

In August 2015, twelve Syrian Christians were brutally and publicly tortured and executed in a village near Aleppo, Syria, because they refused to convert to Islam.[15] ISIS members cut off a young boy's fingertips and beat him as they demanded that his father and two other men renounce Christianity, before executing all four by crucifixion.[16] Eight women were publically raped and beheaded after they refused to renounce Christianity.[17] Recently, ISIS fighters destroyed Iraq's oldest Christian monastery, St. Elijah's.[18] Father Paul Thabit Habib, a Catholic priest said that Iraq's "Christian history was 'being barbarically leveled.'"[19] He added, "'[W]e see it as an attempt to expel us from Iraq, eliminating and finishing our existence in this land.'"[20]

ISIS' treatment of Christians is directly comparable to its treatment of another religious minority, the Yazidis. In August 2014, ISIS captured a Yazidi village and demanded that its residents convert to Islam. When the villagers refused to convert, ISIS executed at least 100 Yazidi men and took the women and children hostage as sex slaves.[21] Similarly, in Syria, ISIS beat and tortured twenty-five Yazidi men in an attempt to convert them.[22] A small number were reportedly released after their families paid a ransom, but the rest were killed.[23]

2. ISIS' ACTS ARE ACTS OF GENOCIDE

ISIS' commission of killings, rape, enslavement, destruction of places of worship, and forcible religious conversion of Christians and other religious minorities in Iraq and Syria because of their religion constitutes the crime of genocide under the Genocide Convention.

First, it is indisputable that Christians constitute a religious group. It is important to mention that both Christians and Yazidis constitute religious groups, and both have been subjected to similar treatment by ISIS.

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[7] Syria Report, *supra* note 3, at 1.
[8] *Id.*
[9] Iraq Report, *supra* note 4 at 4.
[10] *Id.* at 13.
[11] *Id.*
[12] Syria Report, *supra* note 3 at 11.
[13] *Id.*
[14] *Id.*
[15] *Christian Workers in Syria Crucified, Beheaded*, CHRISTIAN AID MISSION (1 Oct. 2015), http://www.christianaid.org/News/2015/mir20151001.aspx.
[16] *Id.*
[17] *Id.*
[18] *Iraq's Oldest Christian Monastery Destroyed by Islamic State*, BBC NEWS (20 Jan. 2016), http://www.bbc.com/news/world-middle-east-35360415.
[19] *Id.*
[20] *Id.*
[21] Iraq Report, *supra* note 4 at 11.
[22] Syria Report, *supra* note 3, at 10.
[23] *Id.*

Second, these acts are committed with *intent to destroy* Christians. ISIS "has been vocal about its 'genocidal intent' toward Christians and other minorities."[24] The natural and intended consequence of killing, raping, enslaving, forcibly converting persons to Islam, and destroying Christian places of worship is the destruction, *in whole or in substantial part*, of religious minorities.

Today, ISIS is specifically targeting Christians because of their membership in a particular religious group. According to the Genocide Convention, killing members of a religious group alone is sufficient to constitute genocide. ISIS systematically continues to commit several of the enumerated categories of the Genocide Convention, each of which individually establishes genocide.

ISIS intends to kill all Christians if they do not convert, pay jizya, or flee. Paying jizya or converting to Islam to avoid death are not meaningful alternatives. In fact, forcible conversion coupled with destruction of Christian places of worship are acts that by their very nature are intended to destroy Christians as a religious group. If Christians succumb to forced conversion, there will be no such group called Christians in Iraq and Syria. If they do not convert and refuse to pay jizya, they will be killed. Either way, Christians as a religious group will cease to exist in the region—a clear goal of ISIS. Moreover, just because ISIS may allow Christians to pay jizya to spare their lives does not negate ISIS' intent to destroy Christians as a religious group. As such, one cannot legitimately claim that, because some Christians can save their lives by paying jizya, ISIS is not engaged in the genocide of Christians. The fact that some Christians have not been killed does not outweigh the many instances where hundreds have been killed.

Without international intervention designed to end this slaughter—to paraphrase the words of UN Ambassador Samantha Power—the International Community will become "no more than witnesses at a funeral"[25] of thousands of Christians and thousands of years of the world's most important history.

4. CONCLUSION

Therefore, the ECLJ urges the United Nations to join other international bodies such as the European Parliament[26] and the Council of Europe's Assembly[27] and publically proclaim that Christians and other religious minorities in Iraq and Syria are victims of genocide and deserving of international assistance and protection.

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[24]Sarah Kaplan, *Has the World Looked the Other Way While Christians are Killed?*, THE WASHINGTON POST (Apr. 7, 2015), https://www.washingtonpost.com/news/morning-mix/wp/2015/04/07/has-the-world-looked-the-other-way-while-christians-are-killed/.

[25]SAMANTHA POWER, "A PROBLEM FROM HELL" AMERICA AND THE AGE OF GENOCIDE 247 (2002, 2003, 2007, 2013) (referencing the Bosnian genocide).

[26]P.A. Res. 2091 (27 Jan. 2016).

[27]E.P. Res. 2016/2529(RSP) (2016).